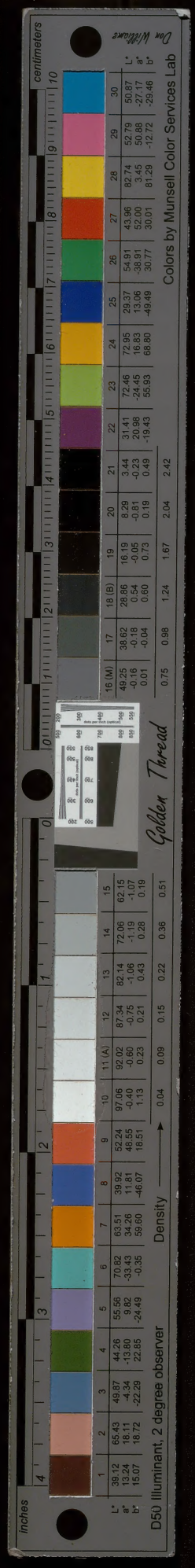
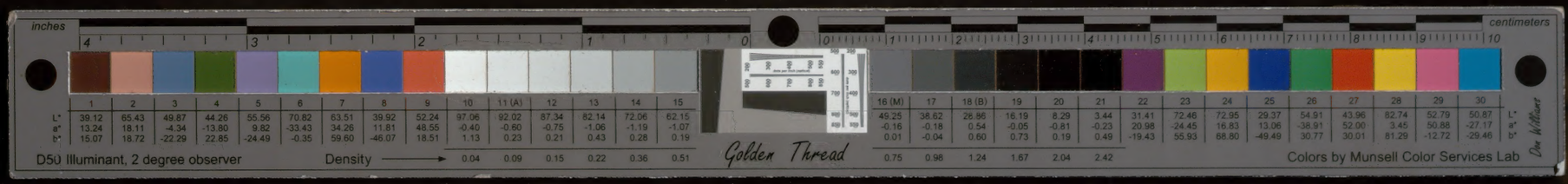
Loganian
No 4

REPORT
OF
COMMITTEE
ON
BUCKS Co. LANDS
ETC.

1862



LOGANIAN LIBRARY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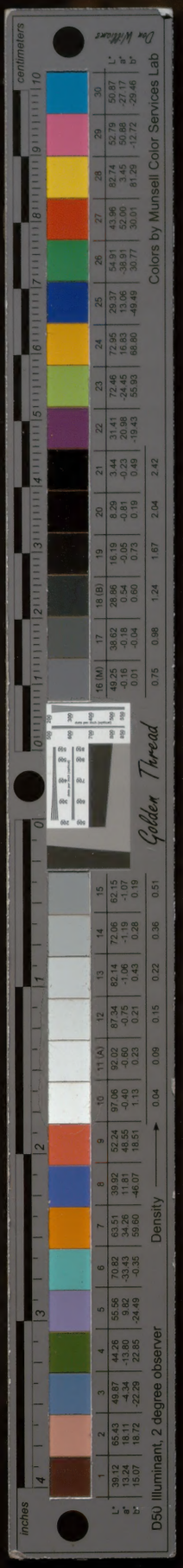
Dan Williams

Report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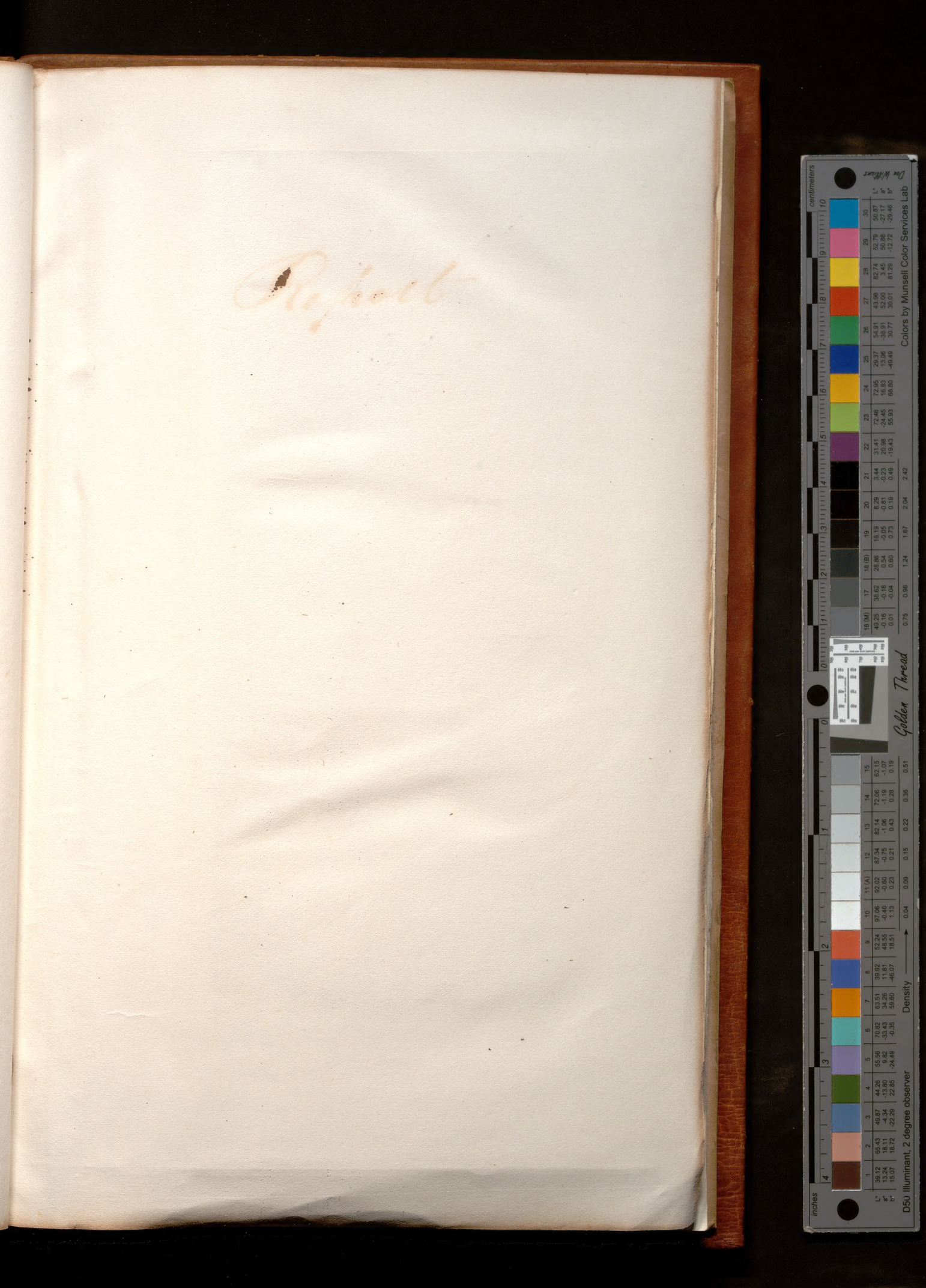


Original Draft
of
Resurvey
—
1860
—

		A	Qr	Ps	
№ 1	Contains	0	3	0	Elias Paxson's
2	"	12	0	0	Chas Smith
3	"	8	2	0	Jacob Eastburn
4	"	2	2	0	Josiah Smith
5	"	10	0	0	Mordecai Pearson
6 & 7	"	1	3	2½	Ch. Smith & Toll Gate lot
8	"	1	2	0	Tho[s] Thornton
9	"	22	0	0	Marlon Atkinson's
10	"	0	1	0	Wm. Peaker
11	"	16	2	0	Marlon Gibbs
12	"	2	0	0	Jesse Parsons
13	"	10	2	0	Wm. Ellis & Co
14	"	1	0	0	R. Naylor
15	"	0	2	0	Ja[s] Weeden
16	"	113	0	0	John Coates
17	"	321	3	21	A. J. Beaumont
18	"	87	2	5	Richard Ely
Total		612	0	28	
		409	1	26	
		202	3	2	

Original Survey
1860

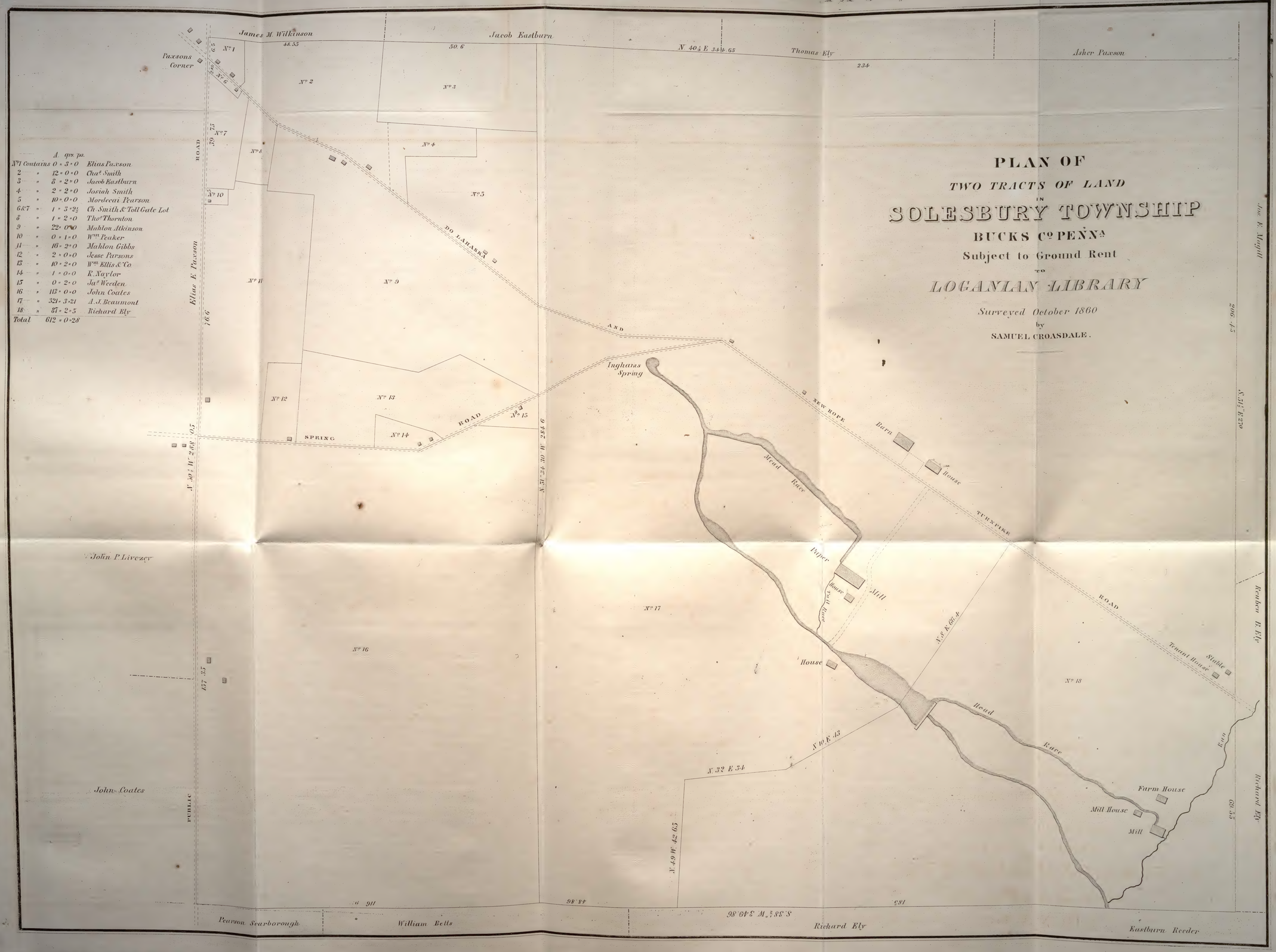
Placeholder Image

This page has been included to maintain the page order and format of the volume.

rn

Asher Paxson

Lithographic Copy
of
Survey
of
1860.


PLAN OF
TWO TRACTS OF LAND
IN
SOLESBURY TOWNSHIP
BUCKS Co PENNA
Subject to Ground Rent
TO
LOGANIAN LIBRARY
Surveyed October 1860
by
SAMUEL CROASDALE.
A. qrs. ps.
No 1 Contains 0 = 3 = 0 Elias Paxson
2 " 12 = 0 = 0 Chas Smith
3 " 8 = 2 = 0 Jacob Eastburn
4 " 2 = 2 = 0 Josiah Smith
5 " 10 = 0 = 0 Mordecai Pearson
6 & 7 " 1 = 3 = 2½ Ch Smith & Toll Gate Lot
8 " 1 = 2 = 0 Thos Thornton
9 " 22 = 0 = 0 Mahlon Atkinson
10 " 0 = 1 = 0 Wm Peaker
11 " 16 = 2 = 0 Mahlon Gibbs
12 " 2 = 0 = 0 Jesse Parsons
13 " 10 = 2 = 0 Wm Ellis & Co
14 " 1 = 0 = 0 R. Naylor
15 " 0 = 2 = 0 Jas Weeden
16 " 113 = 0 = 0 John Coates
17 " 321 = 3 = 21 A. J. Beaumont
18 " 87 = 2 = 5 Richard Ely
Total 612 = 0 = 28
James M. Wilkinson
Jacob Eastburn
Thomas Ely
Asher Paxson
Paxsons Corner
Elias E. Paxson
John P. Livezey
John Coates
Pearson Scarborough
William Betts
Richard Ely
Eastburn Reeder
Jos. E. Magill
Reuben B. Ely
Richard Ely
DO LAHASKA
AND
NEW HOPE
TURNPIKE
ROAD
SPRING
ROAD
PUBLIC
Inghams Spring
Mead Race
Paper
Mill
House
Barn
House
Tenant House
Stable
Head
Race
Farm House
Mill House
Mill
Run
No 1
No 2
No 3
No 4
No 5
No 6
No 7
No 8
No 9
No 10
No 11
No 12
No 13
No 14
No 15
No 16
No 17
No 18
N 40¼ E 344.65
N 50¼ W 288.05
N 51 34 30 W 284.6
N 8 E 66.4
N 10 E 43
N 32 E 34
N 49 W 42.65
S 38¾ W 349.86
S 51½ E 270
48.55
50.6
234
206.45
157.35
116
48.86
185
69.55

Placeholder Image

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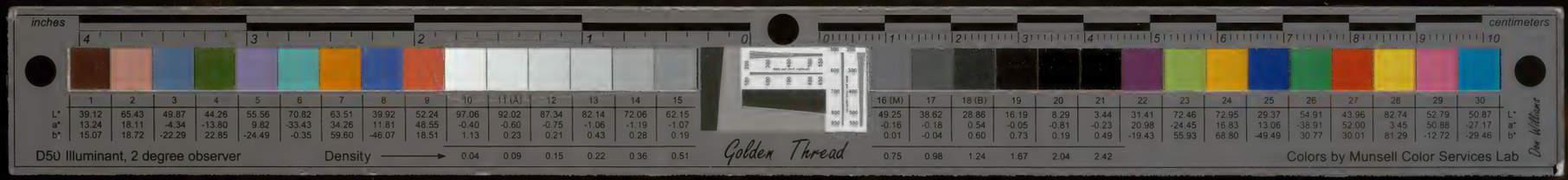
Report
of
Committee.
1862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Density
Colors by Munsell Color Services Lab
Don Williams

The Committee on Rents

ifsuing from the Bucks County Lands granted by the heirs of James Logan to Trustees, for a Public Library, and subsequently transferred upon the same Trusts to the Library Company of Philadelphia.

Respectfully Report.

That after their appointment on the 3d of February A.D. 1859. they paid a visit to the lands in Bucks County, and met there a number of the tenants.

They soon found that the construction which the latter put upon the Deeds from the James Logan to Jonathan D. Ingham, was very different from that given to them by your Committee.

The Tenants insisted ——

First. That the valuation of the land required to be made was merely to ascertain the actual annual profit, the land if fairly cultivated, would produce, which they asserted was never over and generally

under

under 3. p. ct: on their market value, and 2dly That even this valuation was to be taken subject to the deductions arising from taxes repairs and other incidental expenses as well as the restrictions in the deeds, in relation to the woodland and the ones found in the property.

Your Committee of course did not in any way assent to those views; If they had done so; then, we would have been entitled to a rent not one third of that we in justice ought to receive.

They however conceived it much more expedient not to argue these different questions with the parties interested but simply to say, That the Library Company were merely Trustees and while they were ready to submit to whatever was determined to be the true construction of these deeds, they could not assent to the interpretation of the tenants which was very adverse to the interests of the Library until they were justified in so doing by the decision of some competent tri-

bunal

-burial. They then suggested an amica-
ble action in the Supreme Court to settle
these disputed points as the best mode of
terminating this controversy. All this
was done in the most friendly manner
possible, without pressing our side of the
case or doing anything to disturb what
appeared to your Committee to be the
confident opinion of the Tenants and
their counsel: for your Com: were sat-
isfied that these questions could only be set
tled ~~only~~ by our legal tribunals; and it
would be exceedingly desirable if this
could be done with the consent of all
those interested in the matter; An
adverse proceeding would have proved
exceedingly expensive and might have
been prolonged for years.

After con-
siderable delay your Com: was much
gratified to learn that the Tenants of
the larger Tract had determined to
adopt the suggestion of the Com:
and to have the opinion of the Supreme
Court taken as expeditiously as poss
ible

ible.

This was a very important point gained and a bill was soon after filed in the Sup Ct. of the E.D. of Penna: (The Phila: Lib Coy: &c Vs: Andrew J. Beaumont et al: In Equity, Jany. 1861. No. 32.) Setting out the whole case of the Plaintiffs which was immediately answered by the Defendants and the cause submitted without any extended argument to the Judge sitting at Nisi Prius, who on the 26th of Jany: 1862. entered a decree that the valuation should be of the fair market value of the tract with the improvements thereon, free from all incumbrances and that the plaintiffs were to have one moiety of the excess of interest at six per cent upon such valuation over and above the present rent. Upon a full argument. The Sup. Ct: in Banck affirmed this decree The final opinion was pronounced by Thompson Justice on the 6th of May 1861. Copies of the bill, answer, arguments and decrees are hereunto annexed and should be care-

fully

fully preserved for future reference.

As the decision was in our favor, our Counsel drafted the decree, and although the question had not been argued, he inserted as a part of it, that two appraisers should be chosen by each party. This was assented to by the Counsel of the Tenants, and ordered by the Court. Of course an end was thus put to the ambiguity in the deed which only directed that the appraisers — should be indifferently chosen without saying whether the selection of the whole four must be made by all the parties, or whether two were to be chosen by each.

In drawing the submission the manner of the appointments of appraisers was recited and agreed to by all the parties. This was a great success, for although your Com: did not doubt the intention of the grantor in the deeds, yet they found many persons who thought the result very uncertain.

The Library are under great obligations

obligations to their counsel Mr Mc Call who managed the case before the Court with great ability.

As this decree was final the Tenants submitted; and appointed the appraisers without delay. And as they expressed a strong desire to have the valuation made without the presence of counsel, on either side, the Com: agreed to it, not however without some reluctance.

The appraisers on the 7th of August 1861, accompanied by the Com: and the tenants carefully examined the whole tract. They heard the statements of the Tenants. and then adjourned to meet again at New Hope, where both the subsequent meetings on the 10th and 17th of September 1861. were held.

Your Committee found that a very strong feeling existed in Bucks County against the claims of the Library. and were perfectly surprised.

to

to hear three respectable and wealthy men of that neighbourhood, deliberately state to the appraisers that this land was not worth more than Twenty-five or thirty Dollars per acre, subject to the restrictions contained in the Logan deed and that the immense and unfailing Water power and the large limestone quarries were valueless. at this rate the total value of the tract of about 400 acres was only £12.000 —.

The evidence on the part of the Library was

First. The assessment of the property which was about £20.000 —

Second. The evidence of Mr John Kitchin a respectable farmer residing within a short distance of the property who stated that if he had the money he would be glad to buy it at £6.5 — per Acre.

Third.

Third. Three deeds showing that Mr. Oliver Paxson one of the tenants had sold two parcels of land, one of about 100 Acres actually adjoining the Logonian Tract in the year 1860. for £110— per acre, and another in 1859. near it for £75— per acre, and a third sale by another person for 80, per acre.

Fourth. The admission of the parties that the grist mill on Mr Ely's land now rented for £300— per annum, and that until it fell down for want of repairs Mr Beaumonts paper mill had yielded £700— per annum

The farm of Mr Ely's was let on shares and Mr Beaumont occupied his own; and the Com: could procure no account of the income from either of them but it was admitted that Mr Beaumonts brother from whom the property was derived gave for it in 1849. £22.500— including however stock worth about £2000— Subject to the then existing ground rent and a revaluation after about eleven years.

Fifth

Fifth. An offer from responsible persons in Philadelphia to purchase the whole tract as it was, for $24.000 — possession to be delivered on the 1st of April 1862. The Capital and arrears of the ground rent payable to the Library to be deducted from the purchase money. and the balance to be paid in cash. And as a security for the performance of this contract a check for $12.000 — marked good was deposited with Messrs Sandreth and Muirhead the appraisers named by the Library Coy to be by them paid to the owners upon a good title being made.

The tenants without the slightest hesitation refused this offer.

It is a little remarkable that upon this evidence although it is believed our appraisers were willing to value the land @ $24.000 — those appointed by the tenants refused to fix any value approaching

That

That sum, and they separated after signing a certificate dated September the 17th 1861. That they could not agree.

This result satisfied the Com: that they had made a mistake in assenting to an informal appraisement and they so reported to the Board and under their direction retained Cur Cuc Call of Philad^{a} and Cur Watson of Doylestown as their counsel. and instructed them to insist on having the appraisers and Witnesses Sworn and Subpoenas issued to enforce the attendance of such persons as they desired to examine.

By this time the appointment of appraisers on the Dean tract (about 200 acres) which had been delayed by the absence of some of the numerous tenants, was completed and a meeting took place at Doylestown on the 25th of February. 1862.

The

The same evidence given on the former occasion was produced with some additional parol testimony and the result was a valuation of about #4.5 — per acre. As this tract had neither water power nor lime-stone quarries it was admitted (notwithstanding the opinion of the witnesses on the former appraisement) to be much less valuable than the Beaumont Tract. whose owners agreed finally. that the valuation of their land should be fixed at #22.5000 — (about #.5.5 per acre.) a striking commentary upon the truth and honesty of those persons whom they had procured to prove that it was not worth at the outside more than #12.0000 —

The Library Company thought it better to accept this as a settlement of the question, and a Report was accordingly drawn up and signed by new appraisers appointed by the parties and thus the whole matter was disposed

posed of until after the expiration of more than another century.

The Committee annex a reference to the dates and places of record of the different documents executed by the parties and the appraisers for future reference.

Henry. D. Williams

"

David Lewis

Jno Jay Smith

Aug: 4. 1862.

Recapitulation

		Old Rent	New Rent
Ingham Tract	£25. =	$111.11	$730.55
Dean Tract	10 =	44.44	292.20
		155.55	1022.

Beaumont Tract New Survey.

409 Acres 1/4 26. perches.

Case in Sup: Ct. of Pennsylvania

The Phila: Lib Coy: &c Vs: Andrew J. Beaumont et al: In Equity Jany 1861.

No. 32.

First Appointment of Appraisers by the Library Coy: of the one part and A.J. Beaumont et al: owners &c of the other part dated July 30. 1861. recited in next appointment (post).

Report of David Landreth, Ch: Yo. Muirhead, John Blackstone and Stacey Brown Appraisers, that they cannot agree dated Sept 17th 1861. recited in next appointment. (Post).

Second Appointment of Appraisers by the same parties dated Mary 2d 1862. Recorded Bucks Coy: Advs Bk: No. 14. p. 212.

Report of Ed: Armstrong, Hiram Miller, Josiah L. Haines and Marmaduke Watson, the Second set of Appraisers valuing the premises at $22.500 — dated May 17th 1862. Recorded Bucks Coy: Miss Bk: No. 14. p. 216 &c.

Dean Tract. New Survey

202 3/4 Acres and 2 perches.

Appointment of D Landreth, Ch: H. Muirhead W P Rogers and Benj: S. Rich Appraisers. dated Septr: 10th 1861. Recorded Bucks Coy: Miss Bk: No 14. p. 191.

Report of said Appraisers valuing the premises @ $45 — per Ac: dated Feby: 27th 1862. Recorded Bucks Coy: Miss: Bk: No. 14. p 195. &c.

Reprinted B. Wright, 43

THE LIBRARY COMPANY OF PHILADELPHIA

vs.

ANDREW J. BEAUMONT, et al.

BRIEF OF ARGUMENT FOR PLAINTIFFS.

IN THE SUPREME COURT OF PENNSYLV'A

THE LIBRARY COMPANY OF PHILADELPHIA,
in Trust for THE LOGANIAN LIBRARY,
vs.
ANDREW J. BEAUMONT, & AL.

BRIEF OF ARGUMENT FOR THE PLAINTIFFS.

The question presented for decision is: What is the subject matter of the appraisement to be made by the four persons to be indifferently chosen by the parties?

Is it the fee simple value of the land and improvements, clear of incumbrances, as the plaintiffs contend?

Or is it, as the defendants maintain, the present annual value of the land; that is, what would now be just and fair rent for it?

It is submitted on the part of the plaintiffs, that the function of the appraiser is simply to estimate the present market value of the premises clear of incumbrances; and that as soon as this is done, one-half of the excess of the interest, at six per cent., upon the value so ascertained, above the present rent, is, by force and virtue of the covenants of the deed of May 1, 1747, added to the present rent and becomes a new rent for the period of 121 years.

They are far from admitting as the argument of the defendants, p. 15, supposes, that it is the half of the excess of the *annual* value over the present rent that is to be added to it.

Taking into view the nature of the conveyance, and the uniform practice in the reservation of ground rents, with

reference to the price or value of the fee, we respectfully submit that the construction insisted on by the plaintiffs is sounder than that urged by the defendants.

In the first place, it is observable that if it had been the intention of the parties to the deed that the appraiser should ascertain what would be a fair and just rent for the premises, it would have been very easy to have said so. Such stipulations are not unusual in cases of terms with covenants of renewal. But here it cannot fail to be observed, the appraisement is expressly to be of the land and improvements; of the corpus itself. The words are, "the said *tract of land and plantation, with all the improvements thereon*, are to be valued," &c., "and by how much the *true value of the said land and improvements*," &c. Nothing can be clearer than this language. There is no room for doubt. To value a tract of land is to estimate how much it is worth; how much it would bring in the market, if sold; in other words, what is its fee simple value? The "true value" is undoubtedly the value as ascertained by the appraisers at the successive periods designated for the appraisement, as contradistinguished from the old value at the creation of the estate or at the antecedent appraisement, and this value is expressly of the land and improvements, which, in the common understanding and natural meaning of the words, is of the fee simple. Who ever speaks of *valuing* a rent, if the object is to ascertain the amount of rent to be paid? If that were the object, other expressions would be used, such as *determining* the rent, or *fixing* the rent, or the like.

While, therefore, it cannot admit of any reasonable doubt that, under the words "the said tract of land and plantation, with all the improvements thereon, are to be valued," &c., standing by themselves, a valuation of the fee simple is intended; it is contended on the other side, that they are qualified and reduced to an estimation of the annual value by the force of the following clause: "by how much the true value of the said land and improvements shall, in

the estimation of the said four persons, exceed the rent herein reserved; one full half or moiety of such excess shall be added to the said rent herein reserved." The words "true value of the said land" cannot, it is said, mean the value of the fee simple: because that would lead to the absurdity of requiring the payment of a rent equal to half the value of the fee.

In reply to this argument we submit it as clear from doubt, that the "true value" refers to the valuation spoken of in the preceding clause; and that this valuation, in words as plain as language can make it, is of the land and improvements, that is of the fee simple market value thereof; and the words "shall, in the estimation of the said four persons," mean nothing more than "as estimated by the said four persons." So that the clause may fairly be read thus: "by how much the true value, &c., as estimated by the said four persons shall exceed the rent herein reserved."

And then in regard to the absurdity supposed to be involved in this construstion of the words "true value," viz: the requiring a moiety of the fee simple value to be paid as rent, the maxim cited against us *Qui haeret in littera haeret in cortice*, may fairly be retorted. We must endeavor to ascertain the true meaning of the parties by looking at the nature of the instrument, and referring to the universal practice in the reservation of rents on conveyances in fee; and then we think the Court will arrive at the conclusion that what is to be added to the present rent is the moiety of the excess of legal interest on the "true value," that is, the fee simple value ot the land and improvements.

What then is the nature of the rent reserved by the deed of May 1st, 1747? Undoubtedly it is a ground rent; a rent reserved on a conveyance in fee. That is not questioned. Farley *vs.* Craig, 6 Halsted, 263, cited on the other side, is an authority, if any was wanted, as to the extent of the estate conveyed. It is highly proper then to bring to view and to apply, in the construction of this instrument,

for the purpose of ascertaining the true intent and meaning of the parties, the relation between a ground rent and the fee simple value of the land.

This relation is familiar to everybody in Pennsylvania, where the practice of selling upon ground rent has existed from a very early period. The rent reserved is the legal interest upon the price of the land, where no part of the purchase money is paid in cash; and upon the balance of the price where part is paid in cash.

This relation between ground rent and the *fee simple value* of the land has existed from the earliest period in this State. It may be safely asserted that ground rents in Pennsylvania, have always been reserved with reference to the price or the actual "true value" of the land, and by taking the legal interest upon that value as the measure of the rent. This is conclusively shown by the usual clause of extinguishment, the capital of the rent at six per cent. being the sum required for its redemption. It is believed that no instance can be produced in which any other rule has been adopted. We know of no instance to the contrary.

This being so, let us apply this well settled relation between ground rent and the fee simple value of the land in the construction of the deed of May 1st, 1747. The peculiarity of this instruments, which differ it from ordinary ground rent deeds, is that the ground rent is to increased at successive periods by a valuation of the land and all the improvements, and to become a new rent for successive periods of 121 years, the tenant getting the benefit of all the increase in the value of the lands and improvements during these periods of more than a century. As at the creation of the original ground rent, its amount was, doubtless, fixed upon the relation of interest on the fee simple value; so at each successive period the new ground rent is to be ascertained by reference to the same relation of ground rent to interest on the fee simple value at those periods.

That such was the meaning of the parties to the deed of

May 1st, 1747, we have a right to infer from their using language consistent with that meaning, and not consistent with any other meaning. If the excess to be added to the old rent, in order to constitute the new rent in fee, was to be ascertained in accordance with the ordinary practice in Pennsylvania on the creation of ground rents, then it was *absolutely necessary* to ascertain the "true value" of the fee simple, at each successive period, in order to determine the amount of the new ground rent; and, accordingly, we find expressions pointing to a valuation of the fee simple expressions, perfectly proper and in place, in the creation of a ground rent; but altogether improper and out of place if the intention had been thereby to ascertain the annual value or a just rent at those successive periods.

If such had been their intention, why, we repeat, did they not use the words "annual value," "just rent," or other words of like import? How, we add, can the annual value be determined by any appraisement of the "true value" of the fee simple? This true value affords no criterion to settle the annual value. The parties use the word "rent" frequently throughout the instrument. But when they come to designate the mode in which the new rent is to be ascertained, the language is changed and the words "true value" are substituted. Does not this show conclusively that they had clearly in their minds the distinction between *capital* or *fee simple value*, the interest on which constitutes a ground rent, and *rent* or *annual value*, and that they intended something different from annual value to be ascertained?

See how severely this construction requiring the annual value to be ascertained might operate against the interest of Mr. Logan's assigns. The lands might be intentionally left impoverished at the close of each of the designated periods, without manure or proper cultivation, or fences, the houses out of repair, the lime-stone quarries abandoned, or so worked as to require a large outlay of capital

which no annual renter could advance. The annual value might be almost totally destroyed by such conduct of the tenant; while the "true value" of the land or capital would comparatively be only slightly diminished.

It is submitted, then, that the duty, and the only duty, of the appraisers is, to value the land and improvements at their fair market fee simple value. This value is called in the deed the "true value." Having performed this duty they are *functi officio*. It is no where said in the deed that the appraisers shall determine what the new rent is to be. The amount of the new rent is fixed and settled by *the covenant of the parties*. The true value of the land and improvements having been determined by the estimation of the appraisers, the new rent follows by force of the covenant, that "by how much the true value of the said land and improvements shall, in the estimation of the said four persons, exceed the rent hereby reserved, one full half or moiety of such excess shall be added to the said rent hereby reserved, and from that time become a new rent." The amount of the new ground rent will follow in conformity to the invariable practice on the reservation of ground rents, by taking legal interest on the true value as thus ascertained, and then adding the moiety of the excess of such interest over the old rent to the old rent.

It is said on the other side, as an argument against taking legal intersst on the "true value," that farm lands do not produce six per cent. on their fee simple value.

This argument, if it has any pertinency in the case of a reservation of a ground rent on conveyance in fee, is met by the fact that the tenants are not to pay six per cent. but only three per cent. They get their lands for one-half the appraised value. Surely not a very hard bargain for some of the very best land in Bucks County. This rent, it will be observed, is the whole consideration for the land; no other appears in the deed. And in opposition to the argument that the new rent is to be fixed with reference to the

annual value at the period of appraisement, it may further be observed that it would be unjust to all parties to make the price of land depend on the accidental price of wheat in any one year; and yet the price of grain does in a measure regulate the annual rent of a farm. But it is constantly fluctuating. The price of flour has varied in Pennsylvania, during the last thirty years, from $4.50 to $12.50 per barrel. It can hardly have been the intention to make the price of the land depend on the failure of the crops of one or two years.

An argument is drawn by our learned opponent against the method of valuation contended for by the plaintiffs, from the fact that one-half of the ores, if any, which might be found in the land do not belong to the plaintiffs—and only one-half of the ores belong to the defendants. How, then, it is asked, can the rent be settled upon a basis having reference to the fee simple value, when only half the ores belongs to the defendants, and the other half still belongs to the Logan family, and has not been transferred to the plaintiffs.

It is not perceived how this suggestion in regard to ores which, we believe, have never yet been discovered, and it is not very probable will ever be discovered, can affect the question of what is to be the subject matter of valuation, whether it be land or rent It is very clear that one-half of the ores, if any there be, belongs to the assigns of Jonathan Ingham; and only one-half, therefore, would be included in the estimate of the "true value." By calculating the rent, therefore, on the estimate of the true value, including the moiety of the ores belonging to the defendants, the plaintiffs would get nothing more than they are entitled to.

Finally, it is submitted that if the Court shall be of opinion that the appraisers are to estimate the annual value, then clearly it ought to be the gross, and not the nett, annual value, as contended for by the defendants; because

all charges, outgoings and expenses must be considered as covered by the moity of the excess over the present rent, which the tenants get the benefit of, it not being added to the preseut rent.

McCALL,
For Plaintiffs.

IN THE SUPREME COURT OF PENNSYLVANIA, EASTERN DISTRICT.

JANUARY TERM, 1861. No. 32. IN EQUITY.

THE LIBRARY COMPANY OF PHILADELPHIA
v.
ANDREW J. BEAUMONT et al.

} Certificate from Nisi Prius.

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1. Plaintiff's Bill.
2. Answer of Defendants.
3. Decree of Nisi Prius.
4. Assignment of Errors.
5. History of the Case.
6. Argument for Defendants.
7. Appendix, containing Deeds, etc.

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IN THE SUPREME COURT OF PENNSYLVANIA, IN EQUITY.

CERTIFICATE FROM NISI PRIUS.

McCall. THE LIBRARY COMPANY OF PHILADELPHIA, in Trust for THE LOGANIAN LIBRARY,

v.

ANDREW J. BEAUMONT, and JOHN A. BEAUMONT, and ELIAS ELY, and OLIVER PARRY, Trustees for RUTH ANN ELY, MARGARET W. ELY, RICHARD ELIAS ELY, and Thayer. RUTH ELY, and also Trustees for the children of ELIAS ELY, the children of BENJAMIN PARRY and JANE PARRY, his wife, and the children of THOMAS and HANNAH PAXSON.

Jan. Term, 1861.

No. 32.

PLAINTIFFS' BILL.

IN THE SUPREME COURT OF PENNSYLVANIA.

To the Honorable the Judges of the Supreme Court of the Commonwealth of Pennsylvania:

The Library Company of Philadelphia, in trust for the Loganian Library, bring this their bill against Andrew J. Beau-

mont, John A. Beaumont, and Elias Ely, and Oliver Parry, trustees for Ruth Anna Ely, Margaret W. Ely, Richard Elias Ely, and Ruth Ely, and also trustees for the children of Elias Ely, the children of Benjamin Parry and Jane Parry, his wife, and the children of Thomas and Hannah Paxson.

And thereupon the plaintiffs complain and say, that by indenture made the first day of May, A. D. 1747, between James Logan, of the one part, and Jonathan Ingham, of the other part, the said James Logan did grant and convey to the said Jonathan Ingham, a certain tract of land in the township of Solesbury, and county of Bucks, in the then Province of Pennsylvania, containing three hundred and ninety-six acres and one hundred and twenty perches; to have and to hold the same from and after the first day of March, in the year 1753–4, to the said Jonathan Ingham, his heirs and assigns, forever; yielding and paying therefor, yearly, to the said James Logan, his heirs and assigns, the yearly rent of twenty-one pounds sterling, on the first day of March in every year, for and during the full term of seven years; and from and after the expiration of the said seven years, for and during the full term of one hundred years then next ensuing, the yearly rent of twenty-five pounds sterling, on the first day of March, yearly, and after the expiration of the said last mentioned term, that is to say, the term of one hundred and seven years from the time of the first entry upon the said land, which will be in the year of our Lord one thousand eight hundred and sixty, sixty-one, it was provided the said tract of land and plantation, with all the improvements thereon, should be valued by four judicious, impartial men, to be indifferently chosen by the heirs and assigns of the said James Logan, of the one part, and the executors, administrators, and assigns of the said Jonathan Ingham, of the other part; and by how much the true value of the said land and improvements should, in the estimation of the said four persons, exceed the rent therein reserved, one full half or moiety of such excess should be added to the said rent therein reserved, and from that time become a new rent, and should be yearly yielded and duly paid to the heirs or assigns of the said James

Logan, by the executors, administrators, and assigns of the said Jonathan Ingham, on the first day of March, yearly, forever; and in the like manner the like proceedings should be renewed at the expiration of every term of one hundred and twenty-one years forever thereafter. A copy of the said indenture is hereto annexed as an exhibit, marked (A).

By virtue of divers descents, assurances, and conveyances, the said tract of land with the improvements thereon, charged with the rent reserved as above mentioned, has become vested in the defendants, and the said rent has become vested in the Library Company of Philadelphia, in trust for the Loganian Library.

The plaintiffs aver, that according to the true intent and meaning of the said indenture, the valuation which is to be made at the expiration of the said term of one hundred and seven years, and in like manner at the expiration of every term of one hundred and twenty-one years thereafter, by the four persons to be indifferently chosen by the assigns of the said James Logan and Jonathan Ingham, is of the fair market value of the fee simple of the said tract of land with the improvements thereon, free from all incumbrances; and that one half of the excess of the interest at six per cent. upon that valuation of the fee simple, over and above the said rent of twenty-five pounds, is to be added to that rent, and to become a new rent for the period of one hundred and twenty-one years, from the first day of March, A.D. 1861.

The plaintiffs aver, that they are ready and willing to appoint, and have offered to the defendants to appoint two judicious impartial men on their part, to make such valuation of the fee simple of the said tract of land and improvements, or to join with the defendants in the appointment of four judicious impartial persons indifferently to make such valuation, and have requested and applied to the defendants to do the same, and they well hoped that the defendants would have complied with this their reasonable request.

But so it is, may it please your honors, that the defendants alleging that the valuation to be made, according to the true intent and meaning of the said indenture, is not of the fee simple,

but is only of the net annual value of the said tract of land and improvements, and that a moiety of the excess of such net annual value, over and above the said rent of twenty-five pounds sterling, is to be added to it, altogether decline and refuse to appoint two men to make such valuation of the fee simple as aforesaid, or to join with the plaintiffs in appointing four judicious and impartial persons indifferently to make such valuation, and decline to make any appointment, unless the persons to be appointed are to appraise only the net annual value of the said tract of land and improvements.

To the end, therefore, that the defendants may answer all and singular the premises; and that they may be decreed to appoint two judicious and impartial men to value the fee simple of the said tract of land and improvements, or to join with the plaintiffs in appointing four judicious and impartial persons indifferently to make such valuation; and that the plaintiffs may be decreed to be entitled to have added to the present rent of twenty-five pounds sterling, a moiety of the excess of the interest at six per cent., upon such valuation of the fee simple, over and above the said rent; and that the plaintiffs may have such other and further relief as the circumstances of the case may entitle them to,

May it please your honors to grant to the plaintiffs the commonwealth's writ of subpœna, to be directed to the defendants, commanding them, at a certain time and under a certain pain therein limited, to be and appear before your honors, to answer the premises, and to stand to, perform, and abide such order and decree as your honors shall make in this cause.

And they will ever pray, &c.

McCall,
Solicitor for Plaintiffs.

DEFENDANTS' ANSWER.

The joint and several answer of Andrew J. Beaumont, John A. Beaumont, and Elias Ely and Oliver Parry, trustees as aforesaid, to the bill of complaint of the said The Library Company of Philadelphia, in trust for the Loganian Library.

These defendants, saving and reserving the benefit of all and all manner of exceptions to the many imperfections, deficiencies, &c., of the said complainants' bill of complaint, for answer thereto, or so much thereof as they are advised is material to be answered unto, answering say:

That true it is, that by a certain indenture, made the 1st day of May, 1747, between James Logan, of the one part, and Jonathan Ingham, of the other part, the said James Logan did grant, bargain, sell, alien, enfeoff, and confirm unto the said Jonathan Ingham, a certain tract of land, in the township of Solesbury and county of Bucks, in the then Province of Pennsylvania, particularly described in the said indenture, containing three hundred and ninety-six acres and one hundred and twenty perches, to have and to hold the same from and after the 1st day of March, 1753–4, unto the said Jonathan Ingham, his heirs and assigns, forever, yielding and paying therefor yearly to the said James Logan, his heirs and assigns, the yearly rent or sum of twenty-one pounds sterling, on the first day of March in every year, for and during the full term of seven years, and from and after the expiration of the said seven years, for and during the full term of one hundred years then next ensuing, the yearly rent of twenty-five pounds sterling on the first day of March yearly; and it was further agreed and provided in and by the said indenture as follows, viz.: "After the expiration of the said last-mentioned term, that is to say, the term of one hundred and seven years from the time of the first entry upon the said land, which will be in the year of our Lord 1860–1, the said tract of land and plantation, with all the improvements thereon, are to be valued by four judicious, impartial men, to be indifferently chosen by the heirs and as-

signs of the said James Logan, of the one part, and the executors, administrators, and assigns of the said Jonathan Ingham, of the other part, and by how much the true value of the said land and improvements shall in the estimation of the said four persons exceed the rent herein reserved, one full half or moiety of such excess shall be added to the said rent herein reserved, and from that time become a new rent, and shall be yearly yielded and duly paid to the heirs or assigns of the said James Logan, by the executors, administrators, or assigns of the said Jonathan Ingham, on the 1st day of March yearly forever; and in the like manner the like proceedings shall be renewed at the expiration of every term of 121 years forever hereafter." The respondents believe the copy of said indenture annexed to the complainants' bill to be a correct copy.

And these defendants further answering say, that true it is, that by virtue of sundry mesne conveyances, devises, descents, assurances, and proceedings, the said tract of land charged with the ground-rent reserved as above mentioned, has become and now is vested in fee simple in the said defendants; and these defendants are informed and believe that the ground-rent so as aforesaid reserved out of the said tract of land to the said James Logan, his heirs and assigns, has become vested in the Library Company of Philadelphia in trust for the Loganian Library.

And these defendants further answering say, that they wholly deny the allegation in the said complainants' bill of complaint contained; that by the true intent and meaning of the said indenture, the valuation which is to be made at the expiration of the said term of one hundred and seven years, and in like manner at the expiration of every term of one hundred and twenty-one years thereafter, by the persons to be indifferently chosen by the heirs and assigns of the said James Logan of the one part, and the executors, administrators, and assigns of the said Jonathan Ingham of the other part, is a valuation of the fair market value of the fee simple of the said tract of land, with the improvements thereon, free from all incumbrances, and that one-half of the excess of the interest at six per cent. upon that valuation of the fee simple over and above the said rent of

twenty-five pounds sterling, is to be added to that rent, and become a new rent, as averred and charged in the said complainants' bill; but these defendants say, that by the true intent and meaning of the said indenture, the valuation to be made by the four persons to be indifferently chosen as aforesaid, is of the annual rent or value of the premises, after deducting all proper charges, incumbrances, outgoings and expenses, and that one-half of the excess of such newly valued and ascertained rent is to be added to the rent formerly reserved.

And these defendants further answering say, that they have at all times been ready and willing, and are now ready and willing, and have offered repeatedly to the said complainants, to join with them, the said complainants, in choosing, indifferently, four judicious and impartial men, or to choose two such men upon their part, leaving complainants to choose two other such men upon their part, to make such new valuation of the annual rent or value of the premises after deducting all proper charges, and to add one-half of the excess of such newly valued and ascertained rent to the ground-rent formerly reserved in accordance with the provisions and the true intent and meaning of the said indenture, but the complainants have wholly refused, and still unjustly refuse, to accede to the said offer, or to join with the defendants in choosing the said four judicious and impartial men, in order to have the new rent ascertained and fixed in the manner aforesaid, and in accordance with the true intent and meaning of the said indenture, but insist upon the method of valuation which is set forth in their bill, which method these defendants have refused, and do refuse to submit to or be bound by, because the same is not in accordance with the true intent and meaning of said indenture of May 1, 1747, and would greatly prejudice and injure the said defendants.

All which matters and things these defendants are ready and willing to aver, maintain, and prove as this honorable court shall direct, and humbly pray to be hence dismissed, with their reasonable costs.

M. Russell Thayer,

Attorney for Andrew J. Beaumont, John A. Beaumont, and for Elias Ely, and Oliver Parry, Trustees, &c.

It is agreed between the complainants and defendants that the foregoing answer shall have the same force and effect in all respects as if the same had been duly signed and sworn to by all the defendants. It is further agreed between the complainants and defendants that all the deeds which relate to the transmission of the title to the land or to the ground-rent mentioned in the foregoing bill and answer, be considered as in evidence, in the same manner and with the same effect as if the same had been regularly put in evidence before an examiner appointed by the court, and had been duly reported to the court by him as evidence in the cause. January 19, 1861.

P. McCall,
For Plaintiffs.

M. Russell Thayer,
For Defendants.

DECREE OF THE COURT OF NISI PRIUS.

The Library Company of Philadelphia,
in Trust for the Loganian Library,
v.
Andrew J. Beaumont et al.

And now, Jan. 26th, 1861, this cause came on to be heard; and thereupon, on consideration thereof, it was ordered, adjudged, and decreed as follows, to wit: That according to the true intent and meaning of the indenture of May 1st, 1747, set forth in the pleadings, the valuation which it is therein provided shall be made at the expiration of the term of one hundred and seven years therein mentioned, and in like manner at the expiration of every term of one hundred and twenty-one years thereafter, by four persons, to be indifferently chosen by the assigns of James Logan and Jonathan Ingham, is of the fair market value of the fee simple of the tract of land conveyed by the said indenture with the improvements thereon

free from all incumbrances, and not of the net annual value of the said tract of land and improvements; and that the plaintiffs are entitled to have one moiety of the excess of the interest at six per cent. upon the said valuation of the fee simple of the said tract of land, and improvements to be made as aforesaid, at the expiration of the said term of one hundred and seven years over and above the present rent of twenty-five pounds sterling, added to the said rent, to become a new rent for the period of one hundred and twenty-one years from the first day of March, 1861. And it is further ordered, that the defendants do choose indifferently two judicious and impartial men on their part, to join with two such men to be chosen by the plaintiffs, to make such valuation as aforesaid of the fee simple of the said tract of land and improvements.

ASSIGNMENT OF ERRORS.

1. The court erred in decreeing, that according to the true intent and meaning of the indenture of May 1st, 1747, set forth in the pleadings, the valuation which it is therein provided shall be made at the expiration of the term of one hundred and seven years therein mentioned, and in like manner at the expiration of every term of one hundred and twenty-one years thereafter, by four persons, to be indifferently chosen by the assigns of James Logan and Jonathan Ingham, is of the fair market value *of the fee simple of the tract of land* conveyed by the said indenture, with the improvements thereon, free from all incumbrances, and *not* of the *annual* value of the said tract of land and improvements; and in decreeing that the plaintiffs are entitled to have one moiety of the excess *of the interest at six per cent. upon the said valuation of the fee simple* of the said tract of land, and improvements over and above the present rent of twenty-five pounds sterling added to the said rent, to become a new rent for the period of 121 years from the first day of March, 1861; and in decreeing that the defendants do choose

two judicious and impartial men on their part, to join with two such men to be chosen by the plaintiffs, to make such valuation of the fee simple of the said tract of land and improvements.

M. Russell Thayer,
For Defendants.

HISTORY OF THE CASE.

James Logan, by indenture dated May 1, 1747, granted to Jonathan Ingham, his heirs and assigns, forever, a tract of land in Solesbury township, Bucks county, Pennsylvania, containing 396 acres, 120 perches; yielding and paying therefor yearly, to the said James Logan, his heirs and assigns, the yearly rent of 21 pounds sterling, on the 1st day of March in every year, for and during the term of seven years, and from and after the expiration of the said seven years, for and during the term of one hundred years then next ensuing, the yearly rent of 25 pounds sterling on the 1st day of March yearly. The deed contained a provision for the readjustment of the rent at the end of the said 107 years, which provision is in these words:

"After the expiration of the said last mentioned term, that is to say, the term of 107 years from the time of the first entry upon the said land, which will be in the year of our Lord 1860–61, the said tract of land and plantation, with all the improvements thereon, are to be valued by four judicious and impartial men, to be indifferently chosen, by the heirs and assigns of the said James Logan of the one part, and the executors, administrators, and assigns, of the said Jonathan Ingham, of the other part, and by how much the true value of the said land and improvements shall, in the estimation of the said four persons, exceed the rent herein named, one full half or moiety of such excess shall be added to the said rent herein reserved, and from that time become a new rent, and shall be yearly yielded and duly paid to the heirs or assigns of the said James Logan, by the executors, administrators, or assigns, of the said Jona-

than Ingham, on the 1st day of March, yearly forever; and in the like manner the like proceedings shall be renewed at the expiration of every term of 121 years forever hereafter."

The whole deed is printed in the Appendix, page 19. By a supplemental deed, indorsed upon the foregoing, and dated May 5, 1747 (printed in Appendix, page 23), reciting that whereas, there was a prospect of a mine of copper ore being found upon the premises granted by the deed of May 1, 1747; and whereas, it had been agreed between the said James Logan and Jonathan Ingham, that the profits of any ore found should be divided equally between the said James Logan and Jonathan Ingham, their heirs and assigns; but the said agreement having been omitted from the deed through forgetfulness, it was stipulated, in order to rectify the said omission, that the said James Logan, his heirs and assigns, should have *the half part of all such ore as should be found in the premises covered by the deed of May* 1, 1747.

By indenture, dated March 25, 1760, between William Logan, James Logan (sons of James Logan, deceased), John Smith, and Hannah, his wife (the said Hannah being the surviving daughter of the said James Logan, deceased; and they, the said William Logan, James Logan, and John Smith, being the surviving executors of James Logan, deceased), of the one part, and Israel Pemberton, William Allen, Richard Peters, and Benjamin Franklin, of the other part; the rent reserved by the deed of May 1, 1747, from James Logan to Jonathan Ingham were, *inter alia*, conveyed to the said Israel Pemberton, William Allen, Richard Peters, and Benjamin Franklin, their heirs and assigns, in trust for the Loganian Library. "*Excepting and always reserving unto the heirs and assigns of the said testator, James Logan, all the mines or shares of mines, on the said tract; the same mines or shares not being intended to be granted with the rents aforesaid*" (see Appendix, p. 25). The plaintiffs are now trustees for the Loganian Library, to which the rents belong. The land out of which the rent was reserved by the deed of May 1, 1747, now belongs to the defendants.

It is agreed between the counsel of the respective parties, that all the deeds which relate to the transmission of the title to the land, or to the ground-rent, be considered in evidence.

By one of these deeds, dated April 4, 1803 (Appendix, p. 25), Samuel D. Ingham and wife, and Anna Tilghman, widow of Jonathan Ingham, grantee of James Logan, conveyed a part of the land in question to Hugh Ely in fee, "subject to a ground-rent or annuity, payable the first day of March yearly, forever, to be governed and regulated as follows, viz., the sum of 21 pounds sterling yearly, during seven years ending the 1st March, 1761, and the sum of 25 pounds sterling yearly, during one hundred years ending the 1st March, 1861, and at the expiration of the said term of one hundred years, a computation of the increased *yearly value* of the said land and appurtenances, being made by four judicious, impartial men, indifferently chosen by the said parties, one-half of the excess beyond the yearly rent or annuity for the last one hundred years to be added to the said rent or annuity of 25 pounds sterling, and be the rent or annuity for one hundred and twenty-one years thence ensuing."

In another deed, from Samuel D. Ingham and wife to Horatio Nelson Beaumont (Appendix, p. 25), conveying another part of said land, subject to the said ground-rent, the proceedings for the readjustment of the ground-rent after the 1st March, 1861, is recited in the same words as in the last-mentioned deed, viz., as "a computation of the increased *yearly value* of the said land and appurtenances."

The plaintiffs insisting upon the construction of the deed of May 1st, 1747, which is set forth in their bill, called upon the defendants to join with them in a submission to referees of the question of the *value of the fee simple* of the land. The defendants refused, but say that they are ready and willing, and always have been ready and willing, to join with the plaintiffs in a submission to referees of the question of the *annual value* of the land, which *annual* value they contend to be the true standard by which the computation of the new rent in the manner indicated by the deed is to be made.

The plaintiffs thereupon filed their bill, and the defendants put in their answer. The cause was not argued before the judge at Nisi Prius.

ARGUMENT FOR DEFENDANTS.

The question is, In what manner is the new rent to be valued and ascertained?

The plaintiffs contend that the referees are to value the fee simple of the land, free from all incumbrances; that they are then to calculate six per cent. interest upon that value, and to add one-half of the excess of such interest over the old rent to the old rent.

The defendants contend that the referees are to ascertain the present *annual* value of the land, that is, what sum would now be a fair and just rent for it, and to add one-half of the excess of such value over the old rent to the old rent. They contend that the referees are not bound to fix the new rent by the process of calculating interest at the rate of six per cent. upon the gross value of the land, but that they are to fix the new rent by ascertaining the present annual value of the land, which annual value is to be arrived at by examination of witnesses, examination of the property, and by any other evidence which may assist them in the inquiry.

The defendants submit to the court that there can be no doubt upon the language of the deed, that the new rent is to be adjusted by ascertaining the annual value of the land at the expiration of the 107 years, and adding to the old rent one-half of the excess of the new value over the old rent. The words are, "*And by how much the true value of the said land and improvements shall, in the estimation of the said four persons, exceed the rent herein reserved,* one full half or moiety of such excess shall be added to the said rent herein reserved." The words "true value of the said land" plainly do not mean the gross value of the land or of the fee simple. That would

be an absurd construction of the contract, because it would require the payment of a rent equal to more than one-half of the value of the fee simple. The plaintiffs do not and could not contend for such a construction. If, then, the words "true value of the said land" do not mean the gross value of the land or of the fee simple, they can mean but one thing else, viz., the *annual* value of the land. If, then, it is one-half of the excess of the *annual* value which is to be added to the old rent, clearly that which is to be ascertained and valued by the referees is the *anuual* value, and not the value of the fee simple.

But the plaintiffs say, that this annual value is to be ascertained by calculating six per cent. interest upon the value of the fee simple. But why is it to be ascertained by any such arbitrary rule of calculation? The deed does not mention this method of calculation. It says nothing about interest or interest at the rate of six per cent. Is the annual value of farm lands truly represented by calculating interest upon the value of the fee simple at the rate of six per cent.? We all know that it is not. Farm lands do not ordinarily yield six per cent. upon their value. Why then should six per cent. be considered a fair measure of the annual value when it is notoriously true that they do not rent at any such rate? The method of valuation proposed by the plaintiffs is, therefore, not reasonable, because farm lands do not usually rent at six per cent. upon their gross value. If six per cent. sometimes represents fairly the annual value, it does not follow that these lands would rent for or would be worth any such sum. Why then should the referees be confined to that method of valuation? It is a method *not prescribed by the deed*, but only suggested by the plaintiffs? Why then should the referees be bound to exclude all evidence of the *true* and *real* annual value, and resort to an arbitrary method of valuation, which may or may not express the true annual value? Why should they be compelled to do that, when the deed does not point out any such method of valuation as that which is insisted upon by the plaintiffs? If the parties to the contract had intended to fix the annual value of the lands by a calcula-

tion of six per cent. interest upon the value of the fee simple, would they not have said so in the deed? Why should the annual value be fixed at six per cent. rather than four per cent., five per cent., or seven per cent.? Could the parties to the contract know that six per cent. would be the lawful rate of interest 114 years after the making of the contract? Could they know that either lands or money would be worth six per cent. rather than five or seven per cent., more than a century after the contract was made?

If it be said in reply to this, that the deed says that the "land and improvements are to be valued," the reply is, that we are not to take these words by themselves, but we are to seek for the true intention of the parties in the object which they had in view, and in all the circumstances of the case. *Qui haeret in littera haeret in cortice.* The words which immediately follow show that the intention of the parties was, that what was to be added to the old rent is one-half of the excess of the *annual* value. Therefore the thing to be fixed is the annual value; and this by the exercise of the best judgment of the referees, in view of all the evidence which could be produced to them upon the subject of the annual value, and not by any such arbitrary rule as that contended for by the plaintiffs. When, therefore, the deed says that the "lands and improvements are to be valued," it clearly means that the *annual* value of the lands and improvements is to be ascertained at the end of the 107 years; for it is immediately added, "and by how much the true value of the said land and improvements shall, in the estimation of the said four persons, exceed the rent herein reserved, one full half or moiety of such excess shall be added," &c.

It is admitted by the plaintiffs, that what is to be added is the half of the excess of the annual value over the old rent. If, therefore, *that* is the thing to be added, it follows that the thing to be valued is not the fee simple, but the annual value of the lands.

Besides, this process of revaluing the annual rent is to be repeated at the expiration of every one hundred and twenty-

one years. Now could the parties have supposed that any rate of interest which they could prospectively fix upon the value of the fee simple would express the true annual value of the lands so long as the world should stand? If they did, and intended that to be the rule, why did they not say so? Why were they totally silent upon the subject of any rate of interest? And if they were silent, why should those words be now interpolated into a contract which does not speak of such method of adjustment?

Again, it will be seen, by reference to the deed from the heirs and executors of James Logan, conveying this rent to the Trustees of the Loganian Library, that they expressly excepted from the grant, and reserved to themselves James Logan's interest in the mines and ores found upon the property, which mines and ores he had secured to himself by the deed indorsed upon the deed of May 1, 1747, and dated May 5, 1747. The method of valuation contended for by the plaintiffs would give them, therefore, interest upon a part of the property which does not belong to them, and in which they have no interest whatever. Why should the annual rent to which the plaintiffs are entitled be fixed by calculating interest upon a part of the property in which they have no interest, and from which they are entitled to no rent?

Again, the annual value of the lands is much diminished by the restriction in the deed of May 1, 1747, which prevents the owners from clearing more than three-fourths of the tract. Why should interest be calculated at the rate of six per cent. upon the one-fourth which cannot be improved? Is that one-fourth worth six per cent.? If not, why should the annual value of that be arrived at by a calculation of six per cent. upon it?

In the case of Farley *v.* Craig (6 Halsted, 263), another deed of this same James Logan (who appears to have had a fancy for this peculiar kind of conveyance), containing provisions similar in all respects to the one now under examination, came before the Supreme Court of New Jersey. The point for consideration there was the nature and extent of the estate

conveyed; but the learned judge who delivered the opinion of the court, in speaking of this provision relative to the revaluation, describes it as a valuation of the *yearly* value of the land. His language in describing it is, "and after the expiration of the last-mentioned term, that is to say, the term of one hundred and twenty-one years from the time of the first entry on the land, which will be in the year 1857, the full *yearly* value of the land, with its improvements, is to be fairly estimated, and a moiety of what it exceeds the last-mentioned rent is to be added to the last-mentioned rent and become a new rent." (6 Halsted, p. 264.) Though not a decision upon the point here raised, this language shows very plainly that the court in that case understood by this provision that the thing to be estimated was the *yearly* value of the land.

If the *yearly* value is the thing to be ascertained, why should not the referees be permitted to ascertain it according to the truth? And why should they be confined to a method of ascertaining it which is not stipulated for in the deed, which is arbitrary in its character, and does not, as the defendants contend, express the true value? Why should the court be asked to make a contract for the parties which they have not made for themselves?

For these reasons it is respectfully submitted that the plaintiff's bill ought to be dismissed, and the referees left to value the new rent according to the annual value of the land in the method pointed out by the deed.

The decree at Nisi Prius was made without argument, and for the purpose of enabling the parties to have the cause decided by the Supreme Court at the present term. The cause is therefore to be considered as being now heard for the first time by all the judges.

M. Russell Thayer,
For Defendants.

APPENDIX.

(A.)

Deed from James Logan to Jonathan Ingham.

THIS INDENTURE, made the first day of May, in the year of our Lord one thousand seven hundred and forty-seven, between James Logan, of Stenton, in the county of Philadelphia and province of Pennsylvania, gentleman, of the one part, and Jonathan Ingham, of the township of Solesbury, in the county of Bucks and province aforesaid, fuller, of the other part, witnesseth, that the said James Logan, for and in consideration of the payment of the several rents hereinafter reserved, and performance of the covenants and agreements hereinafter mentioned, which, on the part and behalf of said Jonathan Ingham, his heirs and assigns, are or ought to be observed, performed, and kept, hath granted, bargained, sold, enfeoffed, and confirmed, and by these presents doth grant, bargain, alien, enfeoff, and confirm unto the said Jonathan Ingham, a certain piece or tract of land, situate in the said township of Solesbury, in the county of Bucks and province aforesaid, beginning at a corner post in the land late of Thomas Canby, deceased, formerly belonging to Robert Heath, and from thence running south forty-four degrees (44°) west two hundred and thirty perches (230 p.) to a post, being a corner of the land formerly leased to Benjamin Jennings, but now in the occupation of Jacob Dean; thence, by the line of the said Jacob Dean, north forty-seven degrees (47°) west two hundred and seventy-six perches (276 p.), to another corner of the said Jacob Dean's land; thence forty-four degrees (44°) east, by William Scarbrough's land, two hundred

and thirty perches (230 p.), to a black oak in the land of the now or late Lancelot Martin's land; thence, by the said Martin's and Thomas Canby's land, south forty-seven degrees (47°) two hundred and seventy-six perches (276 p.), to the place of beginning; containing three hundred ninety-six acres (396 ac.) and one hundred and twenty perches (120 p.) of land; together with all and singular the buildings, improvements, wags, waters, streams of water, water-courses, woods, underwoods, rights, liberties, privileges, hereditaments, and appurtenances whatsoever thereunto belonging, and the reversions and remainders thereof; to have and to hold the said tract of land and premises hereby granted, from and after the first day of March, in the year of our Lord one thousand seven hundred and fifty-three (four), unto the said Jonathan Ingham, his heirs and assigns, to the use and behoof of him the said Jonathan Ingham, his heirs and assigns, forever; yielding and paying therefor yearly unto the said James Logan, his heirs and assigns, the yearly rent or sum of twenty-one pounds sterling, in English money, or in foreign good-coined silver or gold equivalent to the same, on the first day of March in every year, for and during the full term of seven years, the first payment whereof to be made on the first day of March, which will be in the year of our Lord one thousand seven hundred and fifty-four (five); and yielding and paying unto him the said James Logan, his heirs and assigns, from and after the expiration of the seven years, for and during the full term then next ensuing, the yearly rent or sum of twenty-five pounds sterling, in money aforesaid, in the manner aforesaid, on the first day of March yearly, the first payment of which said last-mentioned rent to be made on the first day of March, in the year of our Lord one thousand seven hundred and sixty (sixty) one; and after the expiration of the said last-mentioned term, that is to say, the term of one hundred and seven years from the time of the first entry on the said land, which will be in the year of our Lord one thousand eight hundred and sixty (sixty) one, the said tract of land and plantation, with all the improvements thereon, are to be valued by four judicious, impartial men, to be indiffe-

rently chosen by the heirs and assigns of the said James Logan, of the one part, and the executors, administrators, and assigns of the said Jonathan Ingham, of the other part, and by how much the true value of the said land and improvements shall in the estimation of the said four persons, exceed the rent herein reserved, one full half or moiety of such excess shall be added to the said rent herein reserved; and from that time become a new rent, and shall be yearly yield and duly paid to the heirs or assigns of the said James Logan, by the executors, administrators, or assigns of the said Jonathan Ingham, on the first day of March yearly forever; and in the like manner the like proceedings shall be renewed at the expiration of every term of one hundred and twenty-one years forever hereafter; and if it shall happen that any of the said yearly rents hereby reserved or any part of any of them, shall be behind and unpaid after any of the said days or times of payment, it shall or may be lawful to and for the said James Logan, his heirs or assigns, or any of them, into and upon the said described tract of land and premises hereby granted or mentioned so to be with the appurtenances or any part thereof, and into all and singular the buildings thereon erected or to be erected, to enter and distrain for the said respective rents so behind; and the distress and distresses then there found and taken to impound and impounded to detain and keep at the proper resque and charges of the said Jonathan Ingham, his heirs and assigns, for the space of five days; and if within the said space of five days payment and satisfaction of the said rent and arrearages thereof, if any be not made, then the same distress and distresses to expose and sell by way of public auction or vendue for the best price that can reasonably be got for the same, leaving in the hands of the persons or officer that makes the distress and surplusage if any be after the rent, and all the arrearages and all charges of distress, detinue, and sale are first deducted. And the said Jonathan Ingham, for himself, his heirs, executors, and administrators, doth covenant, promise, and grant to and with the said James Logan, his heirs and assigns, by these presents, that he, the said Jonathan Ing-

ham, his heirs and assigns, shall and will, from time to time, and at all times forever hereafter, well and truly pay or cause to be paid unto the said James Logan, his heirs or assigns, every of the aforesaid yearly rents hereby reserved according to the days and times hereinbefore appointed for payment thereof in manner and form aforesaid. Provided always, nevertheless, that if any of the rents hereby reserved shall be in arrears and unpaid for the space of twelve months next after the day whereon the same ought to be paid, and no distress sufficient to satisfy the same can be found, and taken in or upon the hereby granted premises when it shall and may be lawful to and for the said James Logan, his heirs and assigns, unto and upon the herein granted tract of land and premises, and the buildings thereon erected, or to be erected, and into every part thereof, with all the appurtenances, wholly to re-enter, and the same then and thenceforth to have again, repossess and enjoy as in his or their former estate and title; and the said Jonathan Ingham, his heirs and assigns, thereout and from thenceforth utterly to expel, amove, and put out until the said arrears, with all the charges thereon, are fully satisfied and paid; and the said Jonathan Ingham, his heirs or assigns, shall within the first twenty-one years of the said term clear no more than three-fifth parts of the said tract of land; and forever thereafter clear no more than three-fourth parts of the said tract of land; and forever thereafter clear no more than three-fourth parts of the said tract of land hereby granted; and the other one-fourth part thereof shall be left for a supply of fencing and firing, after the other time being insufficient, and shall not destroy nor waste any timber except what is necessary for clearing aforesaid; nor shall the land so cleared after the first two years from the time of the first clearing be impoverished by sowing oftener than once in three years for any sort of grain (buckwheat or Indian corn excepted); and the said James Logan, for himself, his heirs, executors, and administrators, doth covenant, promise, and grant to and with the said Jonathan Ingham, his heirs and assigns (paying the aforesaid yearly rents hereby reserved) respectively, according to the days and times herein-

before appointed for payment thereof, and performing all and singular the covenants and agreements aforesaid, which on their parts and behalf are or ought to be observed, performed, and kept according to the true meaning hereof (shall or lawfully may at all times hereafter forever), commencing as aforesaid, freely, quietly, and peaceably have, hold, and enjoy the said described tract of land and premises hereby granted or mentioned so to be, with the appurtenances without the lawful let, suit, trouble or molestation of him, the said James Logan, his heirs or assigns, or any other person or persons by or with his or their privity, consent, or procurement.

In witness whereof, the said parties to these presents have interchangeably set their hands and seals thereto, dated the day and year first above written.

JAMES LOGAN, [SEAL.]

Sealed and delivered in presence of us:

THOMAS ARMSTRONG,
JOHN ARMSTRONG,
CHRISTIAN LEHMAN.

Deed indorsed on the foregoing Deed.

Whereas the parties within mentioned at the time they agreed on the within articles, did likewise agree, that as there is a prospect of a mine of copper ore that may be probably found within the bound of the within granted land, the profits of which the within named James Logan reserved altogether to himself in the lease that he granted for 200 acres, part of the within mentioned tract to Jonas Ingham, father of the within named Jonathan Ingham; but on the said agreement that the said profits, if any ore should be found, should from the within mentioned first day of March, 1753–4, be divided between the said James Logan and Jonathan Ingham, their heirs and assigns, in equal shares; yet, by mere forgetfulness the same was omitted to be inserted in the articles given to the clerk to draw the within written lease. Now, to rectify the said mistake and omission it is hereby further covenanted between the within named James

Logan and Jonathan Ingham, in behalf of themselves, their heirs and assigns, that the said James Logan, as he now has the sole privilege, so after the said first day of March, 1753–4, shall have lawful equal half part, share, and privilege of all such ore as shall be found within the said land, and accordingly the said Jonathan Ingham for himself, his heirs and assigns, doth hereby grant and convey unto the said James Logan, his heirs and assigns one full moiety or half part of all such copper or lead ore as shall at any time be found after the said first day of March, 1753–4, within the bound of the within granted land, with the full privilege of his and theirs, walkeneys at all times hereafter to view the said land, to hold the said moiety of all such copper or lead ore to the said James Logan, his heirs and assigns, to their own proper use and behalf forever.

In witness whereof, the said parties to these presents have set their hands and seals hereto, the fifth day of May, in the year of our Lord one thousand seven hundred and forty-seven.

JAMES LOGAN, [SEAL.]

Sealed and delivered in the presence of us:

his
JACOB + DEAN,
mark.
CHRISTIAN LEHMAN.

Probate of deed and of indorsed deed annexed, dated Nov. 21, 1772.

Recorded in Bucks county, in Deed Book No. 14, p. 408, &c.

The following deeds were also in evidence by agreement of counsel:

INDENTURE, dated March 25, 1760. William Logan, James Logan (son of James Logan, deceased), John Smith, and Hannah his wife (the said Hannah being the surviving daughter of the said James Logan, deceased), and they the said William Logan, James Logan, and John Smith, being the surviving executors of James Logan, deceased), to Israel Pemberton, William Allen, Richard Peters, and Benjamin Franklin, in fee

in trust, for the "Loganian Library," for *inter alia*, the rent reserved by the deed of May 1, 1747, from James Logan to Jonathan Ingham, "excepting and always reserving unto the heirs and assigns of the said testator James Logan, all the mines or shares of mines on the said tract, the same mines or shares not being intended to be granted with the rents aforesaid."

Acknowledged Sept. 19, 1792.

Recorded in Bucks county, in Deed Book No. 39, p. 206, &c.

INDENTURE, dated April 4, 1803. Samuel D. Ingham and wife and Anna Tilghman, widow of Jonathan Ingham, grantee of James Logan, to Hugh Ely, in fee, for 84 acres and 10 perches of the said tract of 396 acres 120 perches, conveyed by James Logan to Jonathan Ingham, by deed of May 1st, 1747, "subject to a ground-rent or annuity, payable the first day of March, yearly, forever, to be governed and regulated as follows, viz.: the sum of 21 pounds sterling, yearly, during seven years, ending the 1st March, 1761, and the sum of 25 pounds sterling, yearly, during one hundred years, ending the 1st March, 1861; and at the expiration of the said term of 100 years a computation of the increased yearly value of the said land and appurtenances being made by four judicious impartial men, indifferently chosen by the said parties, one-half of the excess beyond the yearly rent or annuity for the last 100 years to be added to the said rent or annuity of 25 pounds sterling, and be the rent or annuity for 121 years thence ensuing; and at the expiration of said term of 121 years, the like proceedings to take place to establish a rent or annuity for 121 years thence ensuing, and in like manner from time to time on the expiration of every succeeding 121 years, forever."

Acknowledged April 4, 1803.

Recorded in Bucks county, in Deed Book No. 41, p. 261, &c.

INDENTURE, dated March 27, 1849. Samuel D. Ingham and wife to Horatio Nelson Beaumont, in fee for 309 acres, part of said tract of 396 acres 120 perches, conveyed by James Logan

to Jonathan Ingham, by deed of May 1, 1747, subject to a ground-rent or annuity payable the 1st day of March, yearly, forever, to be governed and regulated as follows, viz.: the sum of 21 pounds sterling, &c. (the same words as in the last preceding deed), and at the expiration of the said term of 100 years a computation of the increased yearly value of the said land and appurtenances being made by four judicious, impartial men, &c., &c. (the same words as in the last preceding deed.)

Acknowledged March 28, 1849.

Recorded in Bucks county, in Deed Book No. 79, p. 302, &c.

inches
centimeters
1 2 3 4 5 6 7 8 9 10 11 (A) 12 13 14 15 16 (M) 17 18 (B) 19 20 21 22 23 24 25 26 27 28 29 30
L* 39.12 65.43 49.87 44.26 55.56 70.82 63.51 39.92 52.24 97.06 92.02 87.34 82.14 72.06 62.15 49.25 38.62 28.86 16.19 8.29 3.44 31.41 72.46 72.95 29.37 54.91 43.96 82.74 52.79 50.87
a* 13.24 18.11 -4.34 -13.80 9.82 -33.43 34.26 11.81 48.55 -0.40 -0.60 -0.75 -1.06 -1.19 -1.07 -0.16 -0.18 0.54 -0.05 -0.81 -0.23 20.98 -24.45 16.83 13.06 -38.91 52.00 3.45 50.88 -27.17
b* 15.07 18.72 -22.29 22.85 -24.49 -0.35 59.60 -46.07 18.51 1.13 0.23 0.21 0.43 0.28 0.19 0.01 -0.04 0.60 0.73 0.19 0.49 -19.43 55.93 68.80 -49.49 30.77 30.01 81.29 -12.72 -29.46
D50 Illuminant, 2 degree observer
Density
0.04 0.09 0.15 0.22 0.36 0.51 0.75 0.98 1.24 1.67 2.04 2.42
Golden Thread
Colors by Munsell Color Services Lab
Don Williams

THE LIBRARY COMPANY OF PHILADELPHIA

vs.

ANDREW J. BEAUMONT, et al.

DECREE OF THE COURT OF NISI PRIUS.

and opinion of the Supreme Ct.

DECREE OF THE COURT OF NISI PRIUS.

THE LIBRARY COMPANY OF PHILADELPHIA, in trust for THE LOGANIAN LIBRARY,
vs.
ANDREW J. BEAUMONT, *et al.*

IN EQUITY.

January Term, 1861.

No. 32.

And now, January 26, 1861, this cause came on to be heard; and thereupon, on consideration thereof, it was ordered, adjudged and decreed, as follows, to wit: That according to the true intent and meaning of the Indenture of May 1st, 1747, set forth in the pleadings, the valuation which it is therein provided shall be made at the expiration of the term of one hundred and seven years therein mentioned, and in like manner at the expiration of every term of one hundred and twenty-one years thereafter, by four persons to be indifferently chosen by the assigns of James Logan and Jonathan Ingham, is of the fair market value of the fee simple of the tract of land, conveyed by the said Indenture, with the improvements thereon free from all incumbrances, and not of the net annual value of the said tract of land and improvements, and that the plaintiffs are entitled to have one moiety of the excess of the interest at six per cent. upon the said valuation of the fee simple of the said tract of land and improvements, to be made, as aforesaid, at the expiration of the said term of one hundred and seven years, over and above the present rent of twenty-five pounds sterling, added to the said rent, to become a new rent for the period of one hundred and twenty-one years, from the first day of March, 1861. And it is further ordered, that the defendants do choose indifferently two

judicious and impartial men on their part, to join with two such men to be chosen by the plaintiffs, to make such valuation as aforesaid, of the fee simple of the said tract of land and improvements.

The Library Company of Philadelphia vs. *Andrew J. Beaumont, et. al.* — *In Equity.* *From Nisi Prius.*

OPINION OF THE COURT, BY THOMPSON, J.

The plaintiffs below are the owners by a devise from James Logan, in trust for the Loganian Library, of a ground rent reserved by the testator in a tract of 396 acres and 120 perches of land in Solesbury Township, Bucks County, and the defendants claim title to the land, subject to rent under and by virtue of sundry conveyances and descents from Jonathan Ingham, the original grantee.

The original rent reserved, in 1747, was £21 sterling, which, by a covenant in the deed of the land, was to remain a rent charge for the period of one hundred and seven years, when a re-valuation of the land and improvements was to be made, and half the increased value was to be added to the existing ground rent, which was to be the rent for another period of one hundred and twenty-one years and so on under periodical valuation at intervals of one hundred and twenty-one years, forever.

The difficulty here has arisen in a difference of opinion as to the mode of valuation to be adopted. Is it to be according to the estimated *annual value* of the premises, or by a valuation of the fee of the land and improvements, half the interest of which to be added to the preceding rental? The plaintiffs contend for the latter and the defendants for the former.

The words in the deed in which the difficulty has arisen

are as follows: At the end of the first period, which was to be in 1861, "the said tract of land and plantation, with all the improvements thereon, are to be valued, by four judicious men, to be indifferently chosen by the heirs and assigns of the said James Logan, of the one part, and the executors, administrators and assigns of the said Jonathan Ingham, of the other part; and by how much the *true value* of the said land and improvements shall, in the estimation of the said four persons, exceed the rent herein reserved, one full half or moiety of such excess shall be added to said rent reserved, and from that time become a new rent," and be paid, yearly, to the heirs and assigns of the grantor for a further period of one hundred and twenty-one years, and so on forever.

In construing this reservation we should bear in mind that the parties had in view the creation of a ground rent, unextinguishable, but subject at long intervals to be changed and increased by a re-valuation of the property out of which it was to issue. This the parties might legally do, although it is somewhat novel.

In conveying land on ground rent a valuation of the premises in some cases is necessary. This fixes what may be called the capital, and a rate of interest agreed upon ascertains the rent reserved. If extinguishable, the capital which would produce an interest equal to the rent would be the sum necessary to be paid to extinguish the charge. This is the usual course of such transactions, and we have not a word to show that any different mode for ascertaining the rent was to be observed. If the words allow it, then the construction will be that the usual mode was intended.

The deed to the grantees provides, "that the land and plantation with all the improvements thereon are to be valued," not at what they would rent for by the year; the words used have a greater scope than this, and there is nothing else where discoverable which would qualify them. The suggestion that 6 *per cent.* is too high a rent for a farm may be true, or not, owing to many circumstances. It

might be a high rent now, and a very low one fifty or a hundred years hence. This consideration is too vague to be allowed to alter the obvious import of the words used. Having valued the land and plantation, then the future rent is to be ascertained, by *so much* as the "*true value*" of said land and improvements "shall exceed the rent reserved, by adding one full half or moiety of such excess" to the existing rent. The valuation is to get at a capital, the interest of which is to be the rent reserved. It is not pretended that the half value of the premises is to be paid as rent every year. This would be absurd, but the fee was to be valued to get at the sum the half of the interest would represent, which being added to the existing rent, was to be the future charge.

The words used, and the object intended, both look to this as the meaning of the parties. There are certainly no words limiting the valuation to what the farm would rent per year, which would involve calculations for taxes and repairs, as contended for by the defendants. The consideration that 6 per cent. would be a high rent we have seen is not sufficient to require the interpretation contended for. On the other hand, in addition to the difficulty in estimating what the taxes might be and the repairs in the future, the process might result in great injustice, as has been well suggested by the plaintiff's counsel, by letting the farm and improvements so run down at the period for estimating the annual value as to be of little worth. Thus, although the fee might have greatly appreciated in the general prosperity of the country, or advance of property in the neighborhood, the rental might be very little if any advanced. Tested by the words used, and supported by the object of the parties and the mode in which such matters are usually transacted, we think the decree at Nisi Prius was based on the true construction to be given to the deed.

I do not appreciate the difficulty suggested, of the possible change of the rate of interest. It is the same now that it was one hundred and seven years ago, when the

ground rent was reserved, and we can predicate nothing of the possible contingency that the rate per cent. may be changed. If it shall be so before 1982, the period of the next valuation, we may trust the court of that day to discover the proper rate per cent. on the capital necessary to constitute the rent by the law regulating the rate which existed at the making of the covenants.

The decree at Nisi Prius is affirmed at the costs of the Appellants.

I certify the foregoing to be a true, full and accurate copy of the Decree of the Court of Nisi Prius, and the Opinion of the Supreme Court, on appeal delivered by THOMPSON, J., on the sixth day of May, A. D., 1861, in the case of The Library Company of Philadelphia in trust for the Loganian Library *vs.* Andrew J. Beaumont, et al., in the Supreme Court of Pennsylvania, for the Eastern District of January Term, 1861. No. 32. In Equity.

In testimony whereof, I have hereunto set my
[SEAL.] hand and affixed the seal of the Supreme Court of Pennsylvania for the Eastern District, at Philadelphia, this fourteenth day of May, A. D., 1861.

JOHN F. BELSTERLING,
Pro Proth.

inches
centimeters
4
3
2
1
0
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1
2
3
4
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6
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10
1 2 3 4 5 6 7 8 9 10 11 (A) 12 13 14 15 16 (M) 17 18 (B) 19 20 21 22 23 24 25 26 27 28 29 30
L* 39.12 65.43 49.87 44.26 55.56 70.82 63.51 39.92 52.24 97.06 92.02 87.34 82.14 72.06 62.15 49.25 38.62 28.86 16.19 8.29 3.44 31.41 72.46 72.95 29.37 54.91 43.96 82.74 52.79 50.87 L*
a* 13.24 18.11 -4.34 -13.80 9.82 -33.43 34.26 11.81 48.55 -0.40 -0.60 -0.75 -1.06 -1.19 -1.07 -0.16 -0.18 0.54 -0.05 -0.81 -0.23 20.98 -24.45 16.83 13.06 -38.91 52.00 3.45 50.88 -27.17 a*
b* 15.07 18.72 -22.29 22.85 -24.49 -0.35 59.60 -46.07 18.51 1.13 0.23 0.21 0.43 0.28 0.19 0.01 -0.04 0.60 0.73 0.19 0.49 -19.43 55.93 68.80 -49.49 30.77 30.01 81.29 -12.72 -29.46 b*
D50 Illuminant, 2 degree observer
Density
0.04 0.09 0.15 0.22 0.36 0.51 0.75 0.98 1.24 1.67 2.04 2.42
Golden Thread
Colors by Munsell Color Services Lab
Don Williams

The Library Company of Philadelphia, a Trust for Library P.
Philadelphia, in
the Commonwealth of Pennsylvania

vs

Andrew J. Sharpless

Decree of the Court of Nisi Prius
In Equity
January T. 1861 No. 32.

And now to wit, Jan. 26. 1861. This Cause coming on to be heard; and thereupon on consideration thereof, it was Ordered adjudged and decreed as follows, viz: That the true intent and meaning of the Indenture of May 1st 1744 & the following, the valuation therein provided shall be made and settled by the Oath or Affirmation of three sworn Appraisers, indifferently chosen by the Parties in the Premises mentioned or the survivors of them, or in case of the refusal or neglect of any of the Parties to appoint an Appraiser, then by the Appraiser appointed by the other Party, or in case of the refusal or neglect of both Parties to appoint Appraisers, then by two Appraisers to be appointed by the Court, the Appraisers to be sworn or affirmed faithfully and impartially to perform the Duties of their Appointment, and to make a just and true Valuation and Appraisement of the Ground Rents, Messuages, Lots of Ground and Premises in the Indenture of May 1st 1744 mentioned and described, and of the Buildings and Improvements thereon, and of the Damages and Injuries which the Owners of the Ground Rents aforesaid, in the Indenture of May 1st 1744 mentioned, shall sustain by the Extinguishment of their Ground Rents, and by the Privileges granted to the Owners of the Messuages, Lots of Ground and Premises thereby granted, of redeeming the same, and to make a just and true Return of their Valuation and Appraisement, under their Hands and Seals, to the Court of Nisi Prius, at the next Term of January or April, which shall happen not less than Twenty nor more than Forty Days after the Date of their Appointment, and that the Owners of the Messuages, Lots of Ground and Premises aforesaid, shall pay the Valuation and Appraisement aforesaid, with Interest thereon from the Date of the Indenture of May 1st 1744 to the Owners of the Ground Rents aforesaid, or to their Attorney duly authorized to receive the same, within Ten Days after the Return of the Valuation and Appraisement aforesaid, and upon Payment thereof, that the Owners of the Ground Rents aforesaid, shall release and convey to the Owners of the Messuages, Lots of Ground and Premises aforesaid, their Heirs and Assigns, all their Estate, Right, Title and Interest in the Premises, by the Indenture of May 1st 1744 granted, free from all Incumbrances, and that the Owners of the Messuages, Lots of Ground and Premises aforesaid, shall pay the Costs of the Rule and Proceedings thereon, and of the Valuation and Appraisement aforesaid, and of the Deed of Release and Conveyance, and the Stamps thereon, and that the Owners of the Ground Rents aforesaid, shall pay the Costs of the Exceptions filed to the Valuation and Appraisement aforesaid, and of the Argument thereon, if the Valuation and Appraisement aforesaid shall be confirmed, and that the Owners of the Messuages, Lots of Ground and Premises aforesaid, shall pay the Costs of the Exceptions filed to the Valuation and Appraisement aforesaid, and of the Argument thereon, if the Valuation and Appraisement aforesaid shall be set aside, and that the Owners of the Ground Rents aforesaid, shall pay the Costs of the Rule and Proceedings thereon, and of the Valuation and Appraisement aforesaid, and of the Deed of Release and Conveyance, and the Stamps

And that the plaintiffs are entitled to have one moiety of the excess of the interest at six per cent upon the said valuation of the fee simple of the said tract of land and improvements to be made as aforesaid at the expiration of the said term of One hundred and seven years over and above the present rent of Twenty five pounds Sterling, added to the said rent, to become a new rent for the period of One hundred and twenty one years from the first day of March 1861. And it is further ordered that the defendants do choose indifferently two judicious and impartial men on their part, to join with two such men to be chosen by the plaintiffs to make such valuation as aforesaid of the fee simple of the said tract of land and improvements.

The Library Co of Philadelphia } In Equity.
v
Andrew A. Beaumont et al } from Nisi Prius

Opinion of the Court by Thompson J.

The plaintiffs below are the owners by a devise from James Logan in trust for the Loganian Library of a ground rent reserved by the testator in a tract of 396 acres and 120 perches of land in Solesbury Township Bucks County, and the defendants claim title to the land subject to the rent under and by virtue of sundry conveyances and de-
-vents from Jonathan Ingham the origi-
-nal grantee,

The original rent reserved in 1747 was £21 Sterling, which by a cove-
-nant in the deed of the land was to remain a rent charge for the period of one hundred and seven years, when a re-valuation of the land and improve-
-ments was to be made and half the increased value was to be added to the existing ground rent, which was to be the rent for another period of one hundred and twenty one years and so on under periodical valuation at

intervals of one hundred and twenty one years forever.

The difficulty here has arisen in a difference of opinion as to the mode of valuation to be adopted. Is it to be according to the estimated annual value of the premises, or by a valuation of the fee of the land and improvements, half the interest of which to be added to the preceding rental. The plaintiffs contend for the latter and the defendants for the former.

The words in the deed in which the difficulty has arisen, are as follows: at the end of the first period which was to be in 1861 "the "said tract of land and plantation, "with all the improvements thereon are to "be valued, by four judicious men, to be "indifferently chosen by the heirs and "assigns of the said James Logan, of "the one part, and the executors, admin"istrators and assigns of the said Jonathan "Ingham, of the other part; and by how "much the true value of the said land "and improvements, shall in the estimation "of the said four persons, exceed the rent "herein reserved, one full half or moiety "of such excess, shall be added to said

"rent reserved, and from that time be
"come a new rent." and be paid yearly
"to the heirs and assigns of the gran-
"tor for a further period of one hun-
"dred and twenty one years and so
"on forever.

In construing this reservation we should bear in mind that the parties had in view the creation of a ground rent unextinguishable but subject at long intervals to be chan-ged and increased by a re-valuation of the property out of which it was to issue. This the parties might legally do although it is somewhat novel.

In conveying land on ground rent a valuation of the premises in some cases is necessary. This fixes what may be called the capital and a rate of interest agreed upon ascertains the rent reserved. If extinguishable the capital which would produce an interest equal to the rent would be the sum necessary to be paid to extinguish the charge. This is the usual course of such transactions and we have not a word to show that a different mode for ascertaining the rent was to be observed. If the words

allow it. then the construction will be that the usual mode was intended,

The deed to the grantees provides "that the land and plantation with all the improvements thereon are to be valued; not at what they would rent for by the year. the words used have a greater scope than this. and there is nothing else =where discoverable which would qualify them. The suggestion that 6 per cent is too high a rent for a farm may be true, or not owing to many circumstances. It might be a high rent now and a very low one fifty or a hundred years hence. This consideration is too vague to be allowed to alter the obvious import of the words used. Having valued the land and plantation, then the future rent is to be ascertained. by so much as the "true value" of said land and improvements "shall exceed the rent reserved. by adding one "full half or moiety of such excess" to the existing rent. The valuation is to get at a capital the interest of which is to be the rent reserved. It is not

pretended that the half value of the premises is to be paid as rent every year. This would be absurd, But the fee was to be valued to get at the sum the half of the interest would represent, which being added to the existing rent was to be the future charge.

The words used and the object intended both look to this as the meaning of the parties, there are certainly no words limiting the valuation to what the farm would rent per year which would involve calculations for taxes and repairs, as contended for by the defendants. The consideration that 6 per cent would be a high rent we have seen is not sufficient to require the interpretation contended for. On the other hand in addition to the difficulty in estimating what the taxes might be and the repairs in the future, the process might result in great injustice as has been well suggested by the plaintiffs counsel, by letting the farm and improvements so run down at the period for estimating the annual value as to be

of little worth. Thus although the fee might have greatly appreciated in the general prosperity of the country, or advance of property in the neighborhood, the rental might be very little if any advanced. Tested by the words used and supported by the object of the parties, and the mode in which such matters are usually transacted we think the decree at Nisi Prius was based on the true construction to be given to the deed.

I do not appreciate the difficulty suggested, of the possible change of the rate of interest. It is the same now that it was 107 years ago when the ground rent was reserved, and we can predicate nothing of the possible contingency that the rate per cent may be changed. If it shall be so before 1982. the period of the next valuation, we may trust the court of that day, to discover the proper rate per cent on the capital necessary to constitute the rent by the law regulating the rate which existed at the making of the covenants

The decree at Nisi Prius is affirmed at the Costs of the Appellants.

I Certify the foregoing to be a true full and accurate Copy of the Decree of the Court at Nisi Prius and the Opinion of the Supreme Court on appeal delivered by Thompson J. on the Sixth day of May A. D. 1861 in the case of The Library Company of Philad.a in trust for the Loganian Library vs Andrew J. Beaumont Val, in the Supreme Court of Pennsylvania for the Eastern District of January Term 1861 No. 32 In Equity.

In testimony whereof I have hereunto set my hand and affixed the Seal of the Supreme Court of Pennsylvania for the Eastern District at Philadelphia this Fourteenth day of A. D. 1861

John L. Budderling
pro Prothr.

The Library of Phila

vs

Andrew J. Beaumont-Del

Decree & Opinion

#3 Trial by Mr McCall

Deed

This Indenture Made the twenty sixth
day of May in the year of our Lord one thousand
eight hundred and forty seven Between James Logan
of the County of Chester and State of Pennsylvania
and Jane his wife of the one part and Thomas Leech
of the County of Philadelphia and State aforesaid
of the other part Witnesseth
That the said James Logan for and in consideration
of the sum of Seventy five dollars lawful money
of the United States of America to him in hand
well and truly paid by the said Thomas Leech
at or before the ensealing and delivery hereof
the receipt whereof is hereby acknowledged
hath granted bargained sold aliened
released and confirmed and by these presents
doth grant bargain sell alien release and confirm
unto the said Thomas Leech his heirs and assigns
forever All that certain tract piece or parcel
of land situate in the Township
of Solebury aforesaid and described
according to a survey and draft thereof
made by Benjamin Eastburn Surveyor
bounded and described as follows
to wit Beginning at a corner
of Joseph Thornes Land
thence by the same North sixty
seven degrees West twenty six
perches to a corner of the said Joseph Thornes Land
thence by the same South twenty
one degrees West ten perches to a corner
of Joseph Thornes Land and James Logans Land
thence by the said James Logans Land
South sixty seven degrees East twenty six
perches to a corner of the said James Logans Land
and James Logans Land
thence by the same North twenty
one degrees East ten perches to the
place of Beginning containing
two acres and one hundred
and forty perches of land
be the same more or less
Together with all and singular the
buildings improvements woods waters
watercourses rights liberties privileges
hereditaments and appurtenances
whatsoever thereunto belonging or
in anywise appertaining and the
reversions and remainders rents issues
and profits thereof and all the estate
right title interest property claim
and demand whatsoever of him the
said James Logan his heirs and assigns
of in and to the same and every
part and parcel thereof To have
and to hold the said two acres
and one hundred and forty perches
of land hereditaments and premises
hereby granted or mentioned and
intended so to be with the appurtenances
unto the said Thomas Leech his heirs
and assigns to the only proper use
benefit and behoof of the said
Thomas Leech his heirs and assigns
forever And the said James Logan
for himself his heirs executors
and administrators doth covenant
promise and grant to and with
the said Thomas Leech his heirs
and assigns by these presents
that he the said James Logan
and his heirs all and singular
the hereditaments and premises
hereby granted or mentioned
and intended so to be with the
appurtenances unto the said
Thomas Leech his heirs and
assigns against him the said
James Logan and his heirs
and against all and every
other person and persons
whatsoever lawfully claiming
or to claim the same or any
part thereof by from or under
him her or them shall and
will warrant and forever
defend In witness whereof
the said parties to these
presents have hereunto
interchangeably set their
hands and seals dated the
day and year first above
written

Sealed and delivered in the presence of us
James Logan
Jane Logan
Thos Evans

Recorded the 29th day of May 1847

Certified Copy
Deed of Dean Tract

the said Land late of William Scarborough
late in the tenure of Samuel Eastburn and by
Land of John Bye south forty seven degrees east
ten hundred and seventy six perches to two
Blackoaks marked for a corner thence by the line
of the manor of highlands & south forty four degr-
ees east one hundred and sixteen perches to the place
of Beginning Containing ten hundred Acres
of Lands Together with all and singular the
Buildings improvements ways waters waters
courses woods underwoods rights liberties privil-
eges hereditaments and appurtenances whatsoever
thereunto belonging and the reversion and
remainder thereof Always provided that the
one moiety or full half part of all the profits
of all Copper or Lead ore which shall in
any manner on the within granted Land be
found after the first day of March one thous-
and seven hundred fifty three four is hereby to
and for the only proper use and behoof of
the said James Logan his heirs and assigns
with the full privilege of his and their Walk
ing to view the said Land forever excepted
and hereby reserved To Have and To Hold
the said tract of ten hundred acres of Lands
and premises hereby granted or mentioned
so to be with the appurtenances (except as before
excepted from and after the first day of March

which will be in the year of our Lord one
thousand seven hundred and fifty three and
unto the said Jacob Dean his heirs and assigns
to the use and behoof of him the said Jacob
Dean his heirs and assigns. Yielding & paying
therefore unto the said James Logan his heirs
and assigns the yearly rent or sum of Ten
pistoles in fine coined Gold weighing at least
four pennyweights and seven grains fine or in
other good coined silver or gold equivalent to
the same on the first day of March in every
year for and during the full term of seven
years the first payment whereof to be made on
the first day of March which will be in the year
of our Lord One thousand seven hundred and sixty
four & five Said Yielding and paying unto him
the said James Logan his heirs and assigns
from and after the expiration of the said Seven
years for and during the full term of one hundred
years then next after ensuing the yearly rents
or sum of ten pound Sterling English Money
as the same passes in England or in foreign
good coined gold equivalent to the same on the
first day of March yearly the first payment
of which said last mentioned rent to be made
on the first day March which will be in the
Year of our Lord one thousand seven hundred
and sixty sixty one and after the expiration of

the last mentioned term that is to say the
sum of one hundred and seven years from
the time of the first entry on said Land which
will be in the year of our Lord one thousand
eight hundred and sixty ~~sixty~~ one the said tract of
Land and plantation with all the improve-
ments thereon are to be valued by four Judicious
impartial Men to be indifferently Chosen by
the heirs and assigns of the said James Logan
of the one part and the executors administrators
and assigns of the said Jacob Dean of the other
part and by how much the true value of said
Land and Improvements shall in the Estimation
of the said four Persons exceed the rent herein
reserved one full half for moiety of such excess
shall be added to the said Rent herein reserved
and from time become a new rent and shall
be yielded and duly paid to the heirs and
assigns of the said James Logan by the executors
administrators or assigns of the Jacob Dean on
the first day of March yearly forever And the
like manner the like proceedings shall be
renewed at the expiration of every term of One
hundred and twenty one years forever thereafter
and if it shall happen that any of the said
Yearly rents hereby reserved or any part of any
of them shall be behinde and unpaid after any of
the said days or terms of said payment Then

shall and may be lawful to and for the said James Logan his heirs and assigns or any of them into and upon the said described Tract of Land and premises hereby granted or any part thereof and into all and singular the Buildings thereon erected or to be erected to enter and distrain for the said respective Rents so behind And the distress and distresses then there found and taken to impound and impounded to detain and keep at the proper charges of the said Jacob Dean his heirs and assigns for the space of five days And if within the said space of five days payment and satisfaction of the said rent and arrearages if any be not made Then the same distress and distresses to expose and sell by public Auction or Vendue for the best price that can reasonably be got for the same leaving in the hands of the person or Officer that makes the distress the surplusage if any be after the rent and arrearages and all charges of distress Detainer and sale are first deducted And the said Jacob Dean for himself his heirs executors and administrators doth covenant promise and grant to and with the said James Logan his heirs and assigns by these presents that he the said Jacob Dean his heirs and assigns shall and will forever

time to time and at all times forever hereafter well and truly pay or cause to be paid unto the said James Logan his heirs and assigns every of the aforesaid yearly rents hereby ~~granted~~ reserved according to the days and times herein before appointed for payment thereof in manner and form aforesaid Provided always nevertheless that if any of the rents hereby reserved shall be in arrears and unpaid for the twelve months next after the day whereon the same ought to be paid and no distress sufficient to satisfy the same can be found and taken in or upon the hereby granted premises then it shall and may be lawful to and for the said James Logan his heirs and assigns into upon the herein granted tract of land and premises and the Buildings thereon erected or to be erected and into every part thereof with the appurtenances wholly to reenter and the same then and thence forth to have again repossess and enjoy as in his or their former estate and title And the said Jacob Dean his heirs and assigns thenceforth and from thence forth utterly to expel remove and put out ~~out~~ until the said arrears with all the charges thereon are fully satisfied and paid And the said Jacob Dean his heirs or assigns shall within the first twenty one

years of the said term clear no more than three fifth parts of the said tract of Land And forever thereafter clear no more than three fourth parts of the said tracts of Land hereby granted and the other one fourth part thereof shall be left for a supply of fencing and firing after the other parts timber shall be insufficient And shall not destroy nor waste any timber excepting what is necessary for clearing as aforesaid nor shall the land so cleared after the first ten years from the time of the first clearing be unimproved by Plowing ~~except~~ oftener than once in three years for any sort of grain (Buckwheat and Indian Corn excepted) And the said James Logan for himself his heirs executors and Administrators doth covenant promise and grant to and with the said Jacob Dean his heirs and assigns by these presents that he the said Jacob Dean his heirs and assigns Paying the aforesaid yearly rents hereby reserved respectively according to the days and times herein before appointed for payment thereof And performing all & singular the covenants and agreements aforesaid which on his and their parts and Behalf are or ought to be observed

performed and Kept according to the true meaning hereof Shall or lawfully may at all times forever hereafter commencing as aforesaid freely quietly and peaceably have hold and enjoy the said described tract of Land and premises hereby granted or mentioned so to be with the appurtenances without the lawful set suit trouble or molestation of him the said James Logan his heirs or assigns or of any other person or persons by or with his or their privity Consent or procurement —

In witness whereof the said parties to these presents have interchangeably set their hands and seals hereto Dated the day and year first above written

James Logan (Seal)

Sealed and delivered in the presence of us
Jonathan Ingham Christ^n Lehman

Bucks County S.S.

Personally appeared before me Mathias Hutchinson one of the Justices of the peace &c in and for the said County Jonathan Ingham one of the Subscribing witnesses to the above written Indenture and on his Solemn Affirmation doth say

that he saw the above named James Logan sign seal and execute the above Indenture and that the name Jonathan Ingham is of this Deponents own hand writing and that he saw Christn. Lehman the other subscribing witness with his name at the same time Witness my hand and seal July 28th 1789

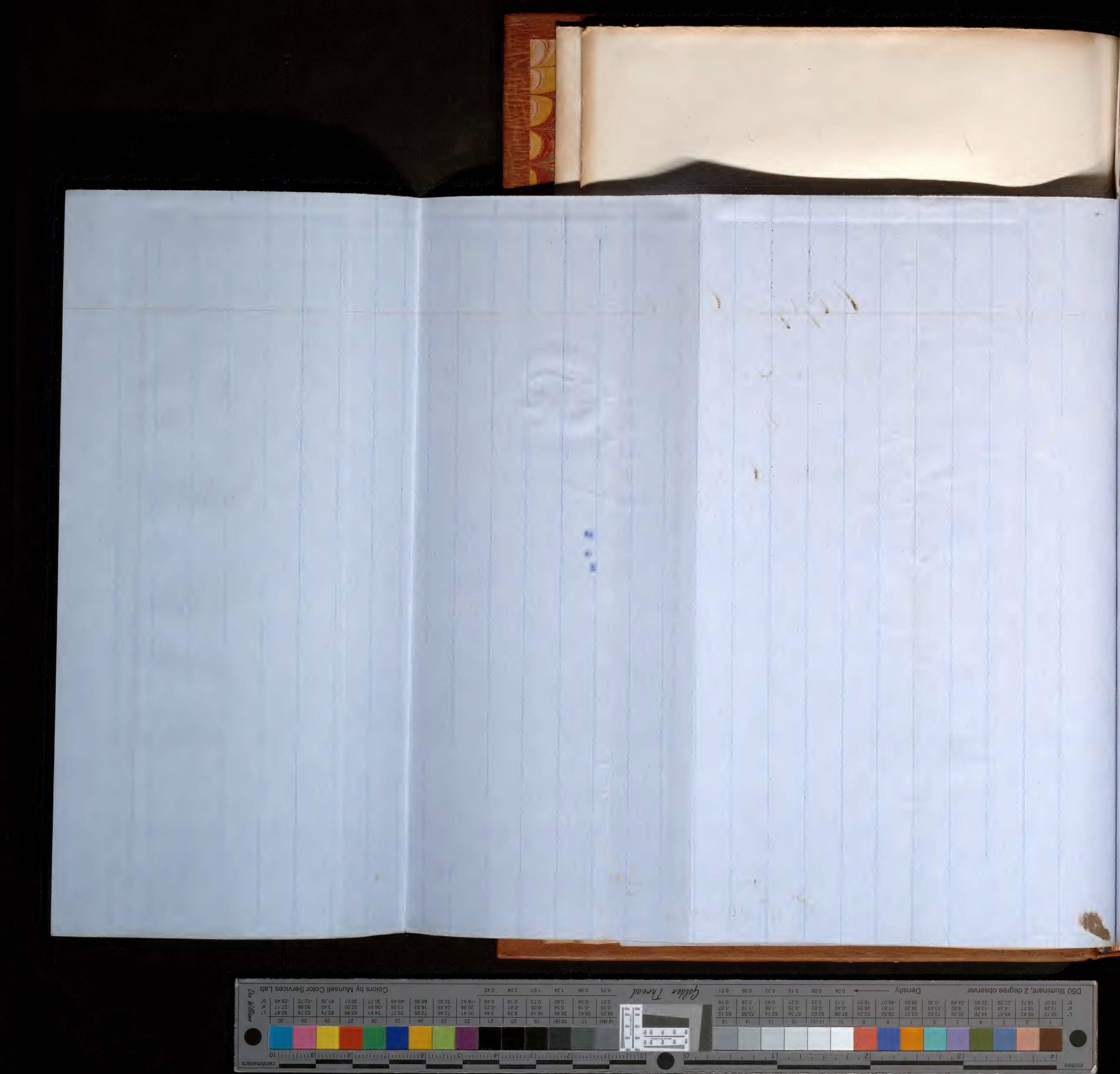
W Hutchinson (seal)

Recorded October 23th 1789

Buck's County SS

I do hereby certify that the foregoing Deed is a true and Correct Copy as the same appears on record in the Recorders Office in said County in Deed Book No. 25 page 197 &c In testimony whereof I have hereunto set my hand and Affixed the seal of said Office at Doylestown February 8th 1856

Hugh Kintner Recorder


Don Williams
Golden Thread
D50 Illuminant, 2 degree observer
Density
Colors by Munsell Color Services Lab
inches
centimeters

Copy of Deed

James Logan

to

Jacob Dean

Fees $3.00 Paid by
C. E. DuBois

Deed

James Ingram
to
Thos Ingram

This Indenture Made the [illegible] day of May in the year of our Lord one thousand eight hundred & forty seven
Between James Ingram of the Township of Salisbury in the County of Lancaster & Province of Pennsylvania Yeoman of the one part And Jonathan Ingram of the Township of Salisbury in the County & Province aforesaid Yeoman of the other part Witnesseth that the said James Ingram for & in consideration of the sum of Two hundred & fifty pounds lawful money of Pennsylvania to him in hand well & truly paid by the said Jonathan Ingram at & before the ensealing & delivery hereof the receipt whereof is hereby acknowledged Hath granted bargained sold aliened enfeoffed & confirmed & by these presents Doth grant bargain sell alien enfeoff & confirm unto the said Jonathan Ingram his heirs & assigns All that certain Messuage or Tenement & Plantation situate lying & being in Salisbury aforesaid containing by estimation Two hundred & Seventy Acres be the same more or less & bounded & described as follows to wit Beginning at a corner post standing in the middle of the Road leading from Bethlehem to Easton & from thence by land of Jacob Snyder & Christian Lehn North forty degrees West one hundred & forty perches to a post corner of land of Christian Lehn aforesaid thence by land of the said Christian Lehn & Conrad Beisel North forty degrees East one hundred & forty perches to a post thence by land of the said Conrad Beisel South forty degrees East one hundred & forty perches to a post thence by land of Jacob Snyder aforesaid South forty degrees West one hundred & forty perches to the place of Beginning Containing Two hundred & seventy Acres & allowance of Three Acres for Roads & Highways as the same are now staked & measured & marked out upon the premises Together with all & singular the Buildings Improvements Woods Waters Watercourses Rights Liberties Privileges Hereditaments & Appurtenances whatsoever thereunto belonging or in any wise appertaining & the Reversion & Reversions Remainder & Remainders Rents Issues & Profits thereof & also all the Estate Right Title Interest Property Claim & Demand whatsoever of him the said James Ingram as well in Law as in Equity of in & to the same & every part & parcel thereof To have & to hold the said Messuage or Tenement & Plantation & all & singular other the premises hereby granted or mentioned & intended so to be with the Appurtenances unto the said Jonathan Ingram his heirs & assigns to the only proper use & behoof of the said Jonathan Ingram his heirs & assigns forever And the said James Ingram for himself his heirs executors & administrators doth covenant promise & grant to & with the said Jonathan Ingram his heirs & assigns by these presents that he the said James Ingram at the time of the ensealing & delivery hereof is the true & lawful owner of the premises & stands lawfully seized of the same in his own right of a good sure perfect absolute & indefeasible estate of Inheritance in Fee Simple without any manner of condition mortgage or other matter cause or thing whatsoever to alter charge change defeat or make void the same And that he the said James Ingram his heirs & assigns shall & will warrant & forever defend the same unto the said Jonathan Ingram his heirs & assigns against the lawful claims & demands of all & every person & persons whatsoever In Witness whereof the said James Ingram hath hereunto set his hand & seal the day & year first above written

Sealed & delivered in the presence of us
William Lewis
Evan Lewis

James Ingram (Seal)

Recorded the 17th day of May A.D. 1847

certified copy
Deed J. Ingram Jacob

(2)

perches to a Black Oak in the land of now or late Lancelot Hardin's land thence by the said Martins land Thomas Canby's land south forty seven degrees ten hundred and Seventy six perches to the place of Beginning Containing Three hundred ninety six Acres and one hundred and twenty perches of land Together with all and singular the Buildings and Improvements ways waters Streams of water water-courses woods underwoods rights liberties privileges hereditaments & appurtenances whatsoever thereunto belonging. Excepting the reversions and remainders thereof To Have and To Hold the said tract of land and premises hereby granted from and after the first day of March in the year of our Lord one Thousand Seven hundred & fifty ~~three~~ four unto the said Jonathan Sergeant his heirs and assigns To the use and behoof of him the said Jonathan Sergeant his heirs and assigns forever Yielding and Paying therefor yearly, unto the said James Logan his heirs and assigns the yearly rent or sum of twenty One Pound Sterling in English Money or six foreign gold or silver dollars equivalent to the same on the first day of March in every year for and during the full term of Seven years the first payment thereof to be made on the first day of March which will be in the year of Our Lord one thousand seven hundred and fifty ~~four~~ five And Yielding and Paying unto him the said James Logan his heirs and assigns from and after the expiration

of the said seven years for and during the full Term
of One Hundred Years then next ensuing the
yearly Rent or Sum of twenty five Pound Sterling
in Money aforsd in manner aforsd On the first
day of March yearly the first payment of which
said last Mentioned Rent to be made on the first day of
March in the year of our Lord one thousand seven
hundred and sixty one And after the expiration
of the said last mentioned term that is to say the
term of One hundred and Seven years from the
time of the first entry on the said Land which
will be in the year of our Lord One thousand eight
hundred and Sixty one the said tract of Land
and plantation with all the improvements thereon
are to be valued by four judicious Impartial men
to be indifferently chosen by the heirs & Assignees of
the said James Logan of the one part and the executors
administrators and assigns of the said Jonathan Ingham
of the other part And by how much the true Value
of the said Land and improvements shall in the
estimation of the said four Persons exceed the rent
therein reserved One full half or moiety of such excess
shall be added to the said rent herein reserved ——
And from that time become a new rent and shall be
yearly yield and duly paid to the heirs or assignes
of the said James Logan by the executors Administra-
tors or assigns of the said Jonathan Ingham on the first
day of March yearly for ever And in the like manner

(4) the like proceedings shall be renewed at the expira-
tion of every term of one hundred & twenty one years
forever hereafter And if it shall happen that any
of the said yearly rents hereby reserved or any part of
any of them shall be behind and unpaid after
any of the said days or times of payment It shall
& may be lawfull to and for the said James Logan
his heirs or assigns or any of them into and upon
the said described tract of land and premises hereby
granted or mentioned so to be with the appurtenan-
ces or any part thereof And into all and singular
the Buildings thereon erected or to be erected to Enter
and distrain for the said respective rents so behind
And the distress & distresses then there found & taken
to impound and impounded to detain and keep
at the proper Resque and Charges of the said
Jonathan Ingham his heirs and assigns for the
space of five days and if within the said space of five
days & Payment & Satisfaction of the said rent and arrear-
ages thereof if any be not made then. Then the same
distress and distresses to expose and sell by way of
Public Auction or Vendue for the best price that can
reasonably be gott for the same leaving in the
hands of the person or Officer that makes the diss-
tress the surplusage if any be after the rent and all
arrearages and all the charges of Distress Distinct
and sale are first deducted and the said Jonathan
Ingham for himself his heirs executors & administrators

doth covenant promise & grant to and with the said James Logan his heirs and assigns by these presents that he the said Jonathan Ingham his heirs and assigns shall and will from time to time and at all times forever hereafter well and truly pay or cause to be paid unto the said James Logan his heirs or assigns every of the aforesaid yearly rents hereby reserved according to the days and times herein before appointed for payment thereof In manner and form aforesd. Provided Always Nevertheless that if any of the rents hereby reserved shall be in arrear and unpaid for the space of twelve months next after the day whereon the same ought to be paid And no distress sufficient to satisfy the same can be found and taken or in upon the hereby granted premises Then it shall and may be lawful to and for the said James Logan his heirs and assigns into and upon the hereby granted tract of Land & premises and the Buildings thereon erected or to be erected and into every part thereof with the appurtenances wholly to Reenter and the same then and thence forth to have again repossess and enjoy as in his or their former estate and title And the said Jonathan Ingham his heirs and assigns thereout and from thence forth utterly to expell remove and put out until the said Arrears with all the Charges thereon are fully satisfied and paid And the said Jonathan Ingham his heirs or assigns shall within the first Twenty one years

of the said term clear nomoxe then three fifth parts of the said tract of Land And forever there After clear no more than three fourth parts of the said tract of Land hereby granted And the other one fourth part thereof shall be left for a supply of fencing and firing (After the other Timber shall be Insufficient) And Shall not destroy nor waste any Timber except what is necessary for clearing as aforsd nor Shall the land so cleared after the first two years from the time of the first clearing be impoverished by sowing oftener than once in three years for any sort of grain (buckwheat or Indian Corn excepted) And the said James Logan for himself his heirs executors and administrators doth Covenant promise & grant to and with the said Jonathan Ingham his heirs and assigns By these presents that he the said Jonathan Ingham his heirs and assigns Paying the aforesaid yearly rents hereby reserved respectively according to the days and times herein before Appointed for payment thereof And performing all and singular the covenants and agreements aforsd which on their parts and behalf are or ought to be observed performed and Kept according to the true meaning hereof Shall or lawfully may at all times hereafter forever Commencing as aforesaid freely gently and peaceably have hold and enjoy the said described tract of Land and premises hereby granted or mentioned so to be with the appurtenances

Without the lawful Let suit Trouble or molestation
of them the said James Logan his Heirs or assigns
or of any other person or persons by or with his or
their Procurity consent or procurement. In Witness
whereof the said parties to these presents have interch-
angeably set their hands and seals thereto Dated
the day and year first above written
Sealed and delivered in the } James Logan Seal
presence of us Thomas Armstrong
John Armstrong Christn Lehman

Whereas the said parties within mentioned at the
time they agreed on the within Articles did likewise
agree That as there is a prospect of a mine of Copper
that may be probably found within the Bounds
of the Within granted Lands the profits of which
the within named James Logan reserved. Altogether
to himself in the Lease that he granted for 200 Acres
part of the within mentioned tract To Jonas Ingham
Father of the within named Jonathan Ingham
Butt on the said Agreement that the said profits
if any oar should be found should from the within
mentioned first day of March 1734 be divided
between the said James Logan & Jonathan Ingham
their Heirs and assigns in equal Shares Yet by mere
forgetfulness the same was omitted to be inserted
in the Articles given to the Clerk to draw the within
written Lease Now to Notify the said mistake
and Omission it is hereby further covenanted

(8)

between the within named James Logan and Jonathan Ingham in behalf of themselves their heirs and assigns That the said James Logans (as he now has the sole privilege) So after the said first day of March 1753/4 shall have lawful equal half part share and privilege of all such oar as shall be found within the said Land And Accordingly the said Jonathan Ingham for himself his heirs and assigns doth hereby grant and convey unto the said James Logan his heirs and assigns one full moiety or half part of all such Copper or lead ore as shall at any time be found After the said first day of March 1753/4 within the bound of the within granted Land with the free privilege of his and their Walkeney at all times hereafter to view the said land To hold the said moiety of all such copper or lead ore to the said James Logan his heirs and assigns to their own proper use and behoof forever In witness whereof the said parties to these presents have set their hands and seals hereto The fifth day of May in the year of our Lord one thousand seven hundred and forty seven James Logan (seal) Sealed and delivered in the presence of us Jacob his X mark Dean Christn Lehman

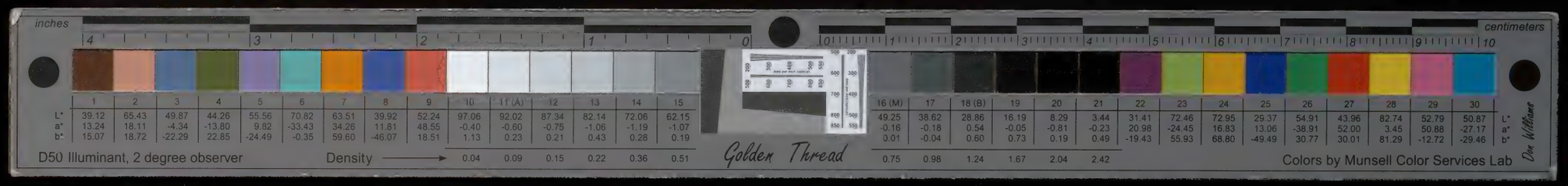
Memorandum this twenty first day of November Anno Domini 1772 Before me William Allen Esqr Chief Justice of the Province

of Pennsylvania personally appeared
Christian Lehman of the City of Philadelphia
Conveyancer Ke being one of the witnesses
subscribed to the execution of the within written
Indenture as well as to the hereon endorsed sup=
plement or rectified omission And he the
said Christian Lehman on his solemn affir=
mation according to Law doth declare and say
that he was present and saw the within named
James Logan Esqr seal and as his respective
acts and Deeds deliver both the said within
written Indenture and the said endorsed
supplement and that this affirmants was
also present and saw Thomas Armstrong
and John Armstrong subscribe their names
as witnesses to the within written Indenture
and also saw Jacob Dean subscribe his mark
to his name as witness to the said endorsed
supplement And that the name Christian
Lehman so as a witness to the within Indenture
written Indenture and the said endorsed
supplement respectively subscribed is of his
this affirmants own hand writing and
further he saith not Christn Lehman
Affirmed at Philadelphia the day and year
above said Before me Will Allen Esqr
Recorded May 13th 1773

Bucks County ss

I hereby certify that the foregoing
Deed is a true and correct Copy as the Same
appears on Record in the Recorders Office in
Said County in Deed Book No 94 Page 408
In Testimony whereof I have hereunto set my hand
and affixed the Seal of said Office at
Doylestown February 8th 1856

Hugh Kinsey Recorder



	1	2	3	4	5	6	7	8	9	10	11 (A)	12	13	14	15
L*	39.12	65.43	49.87	44.26	55.56	70.82	63.51	39.92	52.24	97.06	92.02	87.34	82.14	72.06	62.15
a*	13.24	18.11	-4.34	-13.80	9.82	-33.43	34.26	11.81	48.55	-0.40	-0.60	-0.75	-1.06	-1.19	-1.07
b*	15.07	18.72	-22.29	22.85	-24.49	-0.35	59.60	-46.07	18.51	1.13	0.23	0.21	0.43	0.28	0.19
Density										0.04	0.09	0.15	0.22	0.36	0.51

	16 (M)	17	18 (B)	19	20	21	22	23	24	25	26	27	28	29	30
L*	49.25	38.62	28.86	16.19	8.29	3.44	31.41	72.46	72.95	29.37	54.91	43.96	82.74	52.79	50.87
a*	-0.16	-0.18	0.54	-0.05	-0.81	-0.23	20.98	-24.45	16.83	13.06	-38.91	52.00	3.45	50.88	-27.17
b*	0.01	-0.04	0.60	0.73	0.19	0.49	-19.43	55.93	68.80	-49.49	30.77	30.01	81.29	-12.72	-29.46
Density	0.75	0.98	1.24	1.67	2.04	2.42									

Copy of Deed

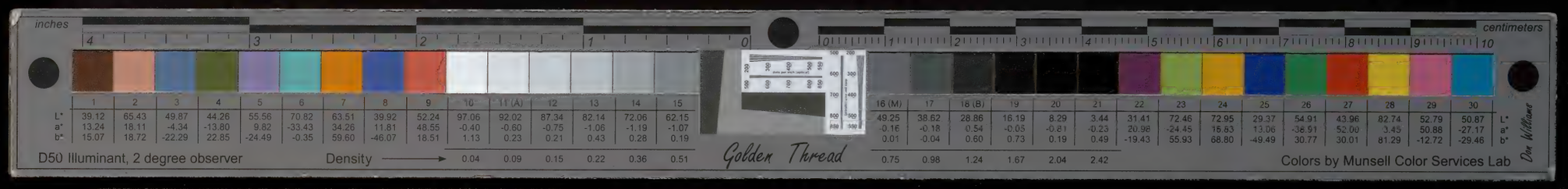
James Logan

to

Jonathan Ingham

Fees $3.00 Paid by

C. E. DuBois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Don Williams

Don Williams
Golden Thread
Colors by Munsell Color Services Lab
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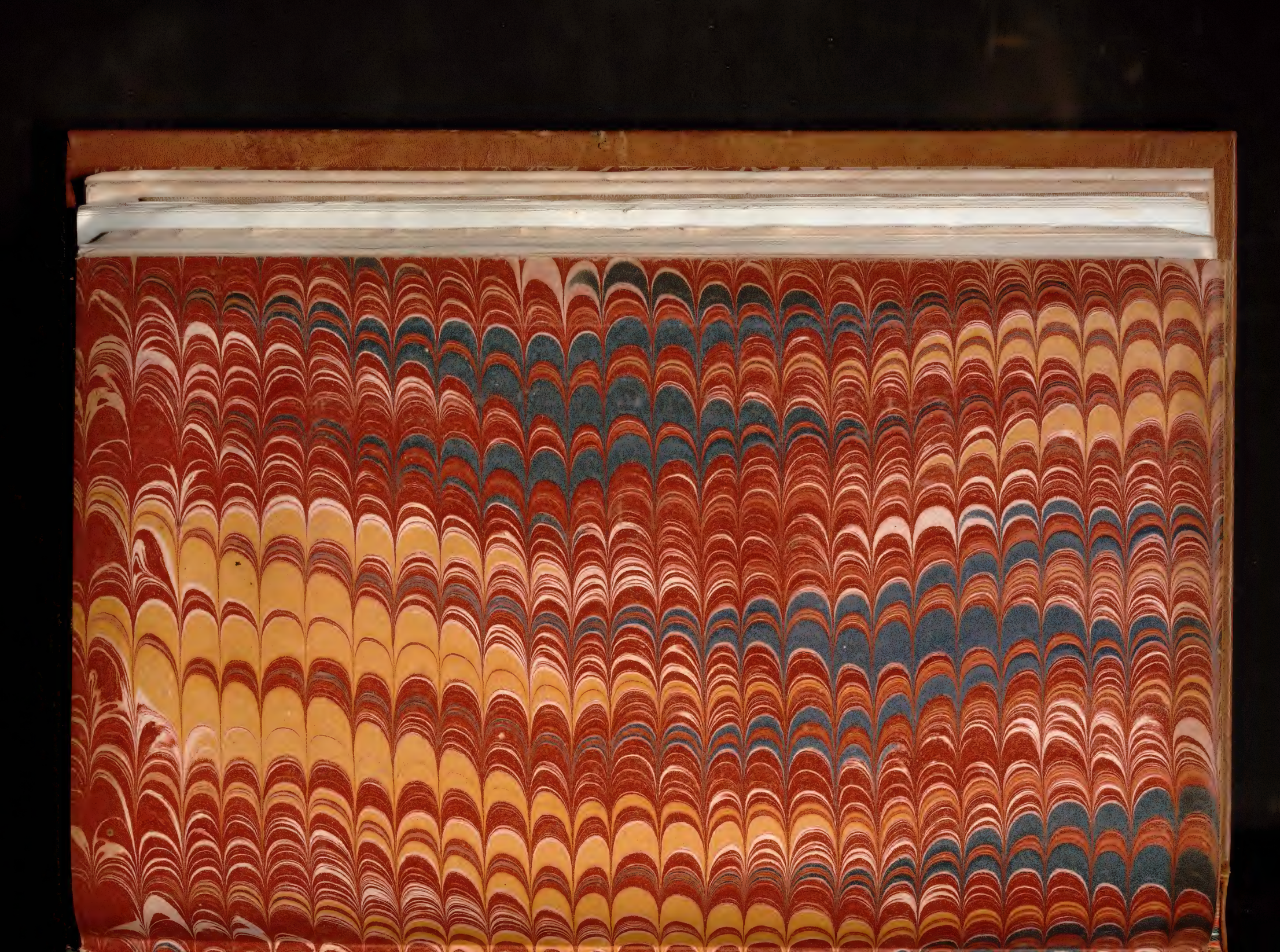
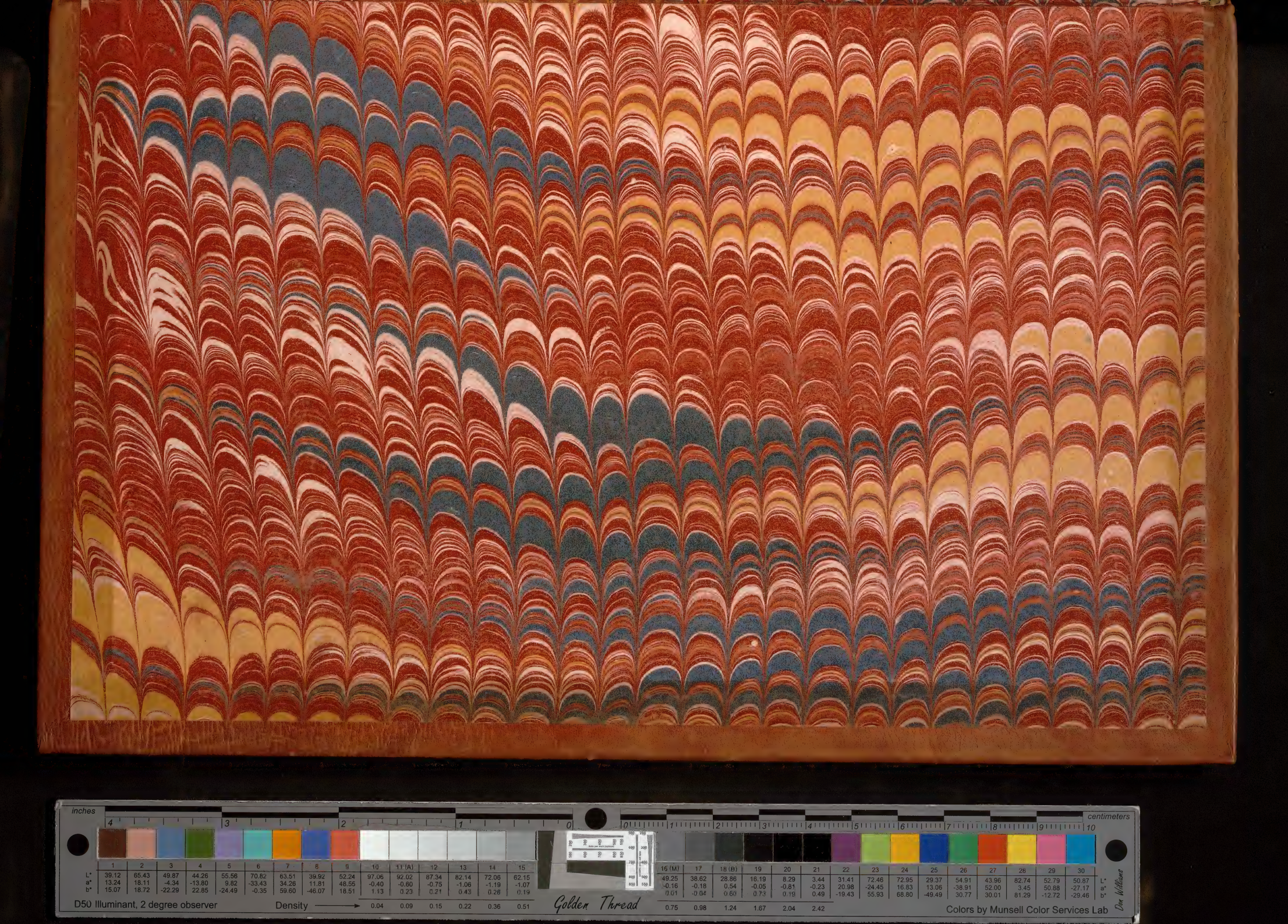
Colors by Munsell Color Services Lab
Don Williams

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Don Williams

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	1	2	3	4	5	6	7	8	9	10	11 (A)	12	13	14	15
L*	39.12	65.43	49.87	44.26	55.56	70.82	63.51	39.92	52.24	97.06	92.02	87.34	82.14	72.06	62.15
a*	13.24	18.11	-4.34	-13.80	9.82	-33.43	34.26	11.81	48.55	-0.40	-0.60	-0.75	-1.06	-1.19	-1.07
b*	15.07	18.72	-22.29	22.85	-24.49	-0.35	59.60	-46.07	18.51	1.13	0.23	0.21	0.43	0.28	0.19

	16 (M)	17	18 (B)	19	20	21	22	23	24	25	26	27	28	29	30
L*	49.25	38.62	28.86	16.19	8.29	3.44	31.41	72.46	72.95	29.37	54.91	43.96	82.74	52.79	50.87
a*	-0.16	-0.18	0.54	-0.05	-0.81	-0.23	20.98	-24.45	16.83	13.06	-38.91	52.00	3.45	50.88	-27.17
b*	0.01	-0.04	0.60	0.73	0.19	0.49	-19.43	55.93	68.80	-49.49	30.77	30.01	81.29	-12.72	-29.46

D50 Illuminant, 2 degree observer

Density → 0.04 0.09 0.15 0.22 0.36 0.51 0.75 0.98 1.24 1.67 2.04 2.42

Golden Thread

Colors by Munsell Color Services Lab

Don Williams L* a* b*

DEAR PENN: In a secluded vale near, but screened by the Intervening forest from the Old York Road and unless that famous "Ageeong volume of Bucks, the famous "Ageeong volume of the Solitary" comes from the hand of the Scholarly Historian of Abington, it will be a cool, crystal water that a spring volume of its source, and remarkable quite for its coolness and transparency and power, in its path to the Delaware, to operate several miles of one kind or another, from times long past to the present.

As this spring celebrated in song as well as in history because of its beautiful environment, has been woven into the annals of some of our earliest colonial families and of our own associated with the creation of the whole neighborhood possesses the elements of romance in our characteristics become deeply interested in the story of larger things accomplished by those who were reared in its tenderest, such memories as those of Ingham, Logan, Ingham, Pike, Elliott, Rees, Paxson, Fell and others none the less prominent.

To this spot, then, I traveled on a recent autumn day. The surrounding hills are clothed in magic color, the Ascending landscapes and the snappy air filled with electric vigor lured me on and still farther into the solitudes where to visit the place where the teacher Tedyuscung was born, and then on to the sheltered hillside above many entered into the thrilling ground of the Great Spirit. Both were Lenni-Lenapes and each possessed of Indians in Bucks County. But from wise leader in the tribal stories of the characters and events awakened under the reflective influence of the Tedyuscung region.

There are some odd features, aside from the interesting historical facts relating to this spring. Its owners, in developing a proper respect for and the last were associated with the establishment of our government, or that may serve to break the sordid monotony of these days, but there is a waste. The monuments marring our progress and aspirations as a nation

Among the grants of land made by Wm. Penn back in 1702, was one for 500 acres and overplus given to James Logan, his secretary. It was located in the (then) Buckingham mountains and about the reaches of the Delaware among the high hills on the Proprietary's Manor of Highland, now in Bucks County. It was the territory set into the commonwealth of Solebury, in Bucks County. It was a splendid domain of unquestionably fertility, was settled by a prosperous body of English Friends. Logan called his Pennsylvania manor "Aquetong," and in this connection there is a persistent belief that it was the birth-place of Jonathan Ingham, Dean's brother-in-law; this section included the great spring which was shrewdly planned by Logan to bring to him and his successors in interest an income in evidence. Yet the woodland is growing wilder and the appurtenances belonging to the pleasure-seeker, the lake no longer bears the buoyant craft, nor echoes the twilight song of the oarsmen as they used to at that time all this forest was formed a part of the Solebury Deer park of about 80 acres; and, as I remember, was used to keep the deer in bounds. Here we used to come on picnics, political mass-meetings and pole-raisings.

Here, too, it was that the Hon. Samuel D. Ingham was born, reared and attended school preparatory to his entrance upon the duties of the Treasury under President Jackson. And so the characters of those times acquired relations with that famous executive; with the affairs of the nation, by pretty large, O'Neal, and all the incidental happenings connected with Ingham's strenuous career on the capital in his day. Secretary Ingham was a son of Jonathan Ingham, the granter, and the latter was one of Bucks county's leading physicians and surgeons.

When the tides of the Revolution swept over the country and Congress was organized to meet the exigencies of the movements of Washington's army, the locality of the Great Spring became the scene of some of his activities in the vicinity. Dr. Ingham served with distinction. His friend, Lieutenant Samuel D. Ingham, President of the United States—was quartered at the Neely house in the immediate neighborhood. Ingham, of the Northumberland county militia, a brother of Dr. Jonathan Ingham, had his company badly cut up in the skirmish at Gulph Mills, near Conshohocken, Pa., on December 11, 1777.

During the great yellow fever plague which visited Philadelphia in the autumn of 1793, Dr. Jonathan Ingham, of Solebury, left his practice to assist in the service to the stricken citizens, until worn and weakened by his zeal and devotion he was obliged to return to his home, but the disease had made rapid inroads upon his constitution and he died soon after. In the higher attributes of Solebury's mountain and valley scenery, while on his estate in New Jersey, he was stricken with the penalty of the malady, he sought Clinton N. J., October 1, 1798. The late William H. Ingham, Esq., of Philadelphia, a grandson of Dr. Jonathan Ingham, and the foregoing recital but a few of the items that might be related concerning the Ingham family and the Ingham Springs.

S. Gordon Smyth.

West Conshohocken, Pa.

THE words of encouragement from the Mayor-elect concerning the need and value of the Commercial Museums have been received with much satisfaction by friends of that institution. It ought to be a full development and activity. An auxiliary of the commerce and trade of Philadelphia. All the possibilities to be derived from it to that end are likely to appeal strongly to a mind of such a type as

Evening Bulletin Nov 29 1919

BY L. FRANK BAUM

THE EARTHQUAK

"How long will you be with us?" he asked.

"Only a day. Tomorrow Uncle Henry and I must start back for Kansas. We've been away for a long time, you know, and so we're anxious to get home again."

The boy flicked the big, bony horse with his whip and looked thoughtful. Then he started to say something to his little companion, but before he could speak the buggy began to sway

Horse, Buggy and

dangerously from side to side and the earth seemed to rise up before them. Next minute there was a roar and a sharp crash, and at her side Dorothy saw the ground open in a wide crack and then come together again.

"Goodness!" she cried, grasping the iron rail of the seat. "What was that?"

"That was an awful big quake," replied Zeb, with a white face. "It almost got us that time, Dorothy.

The horse had stopped short and stood firm as a rock. Zeb shook the reins and urged him to go, but Jim was stubborn. Then the boy cracked his whip and touched the animal's flanks with it, and after a low moan of protest Jim stepped slowly along the road.

How long this state of things continued Dorothy could not even guess, she was so greatly bewildered. Butfa bye and bye, as she stared ahead into the black chasm with a beating heart, she began to dimly see the form of the horse Jim—his head up in the air, his ears erect and his long legs sprawling in every direction. Also, turning her head, she found that she could see the boy beside her, who had until now remained as still and silent as she herself.

Dorothy sighed and commenced to breathe easier. She began to realize

BIG INCREASE IN BUILDING

Figures Show Marked Margin Over Last Year

The monthly report of the Bureau of Building Inspection, issued today, shows a tremendous increase in building activities here during the last eleven months.

The lifting of war restrictions is held responsible for the increase, which, in value of the operations, amounts to $39,500,000 over the first eleven months of 1918.

The figures as given in the report for the month of November, 1919, are: Seven hundred and seven permits, 928 operations and $9,500,000 valuation, as compared with 310 permits, 344 operations and $567,260 valuation in November, 1918.

The totals for the eleven months of 1919 to date are. Nine thousand and twenty-one permits, 13,513 operations and $54,270,765 valuation, against 4,675 permits, 5,852 operations and $14,770,765 valuation for the same period last year.

Announcement has been made of the sale of the Parkway Building, southeast corner of Broad and Cherry sts.

The sale was made by Jesse Jay Schamberg and Ben T. Welch, representing Hampton L. Carson, counsel for Mrs. Anne W. Penfield, owner of the property.

The Sweeten Automobile Company is the purchaser. One million dollars, it is announced, will be spent in remodeling the building.

HUNTER KILLED BY OWN GUN

Victoria, N. J., Farmer, on Rabbit Shoot, Accidently Fires Weapon

While hunting for rabbits in Piney Hollow, near Newfield, N. J., Angelo Michelloti, a farmer, of Victoria, N. J., was instantly killed by the accidental discharge of his own gun.

Companions, hearing the shot, found him lying across a sapling with a portion of his head shot away. It is believed a twig, catching the hammer of the gun, caused it to be discharged.

2 HURT IN COFFEE URN BLAST

Hotel Employes Burned by Scalding Fluid

Lucien Darbos, twenty-five, 1437 Clymer st., and R. Fernandez, thirty-five, 343 N. 10th st., are in a serious condition at the Jefferson Hospital today as the result of burns.

They were injured when a coffee urn exploded last night in the kitchen of a Chestnut st. hotel, where they are employed. The men were splashed by the scalding coffee.

SENDS INCOME TAX BILLS

46,000 of Them, for $45,000,000 Mailed by Lederer

Bills amounting to $45,000,000 for 1918 income taxes were sent out today by Ephraim Lederer, collector of internal revenue for Philadelphia and twenty-two other counties in eastern Pennsylvania.

More than 46,000 bills were sent out covering amounts due in payment for the last quarter of 1918. The payment of bills is due on December 15.

Boy, 8, Injured by Motor

Eight-year-old George Weldon, 5404 Media st., was struck by an automobile as he dodged another vehicle at 52d and Thompson sts last night. The boy suffered a fractured rib and right arm. He was taken to the West Philadelphia Homeopathic Hospital. George Wisner, 52d st., below Girard av., driver, today was held in $400 bail by Magistrate Harris at the 22d and Woodland police station for a further hearing.